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NOTES
ON THE
DIPLOMATIC HISTORY OF THE
JEWISH QUESTION

WITH TEXTS OF TREATY STIPULATIONS
AND OTHER OFFICIAL DOCUMENTS

BY
LUCIEN WOLF

PRINTED FOR THE JEWISH HISTORICAL SOCIETY OF ENGLAND

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OF THE JEWISH QUESTION

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STIPULATIONS AND OTHER PUBLIC
ACTS AND OFFICIAL DOCUMENTS

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PREFACE.

THE substance of this volume was read as a Paper before the Jewish Historical Society of England on February 11, 1918. It has now been expanded and supplied with a full equipment of documents—Protocols of Congresses and Conferences, Treaty Stipulations, Diplomatic Correspondence and other public Acts—in the hope that it may prove useful as a permanent record, and serviceable to those of our communal organisations whose duty it will be to bring the still unsolved aspects of the Jewish Question before the coming Peace Conference.

Besides helping to indicate the lines on which Jewish action should travel in this matter, the State Papers here quoted may also serve to remind the Plenipotentiaries themselves that the Jewish Question is far from being a subsidiary issue in the Reconstruction of Europe, that they have a great tradition of effort and achievement in regard to it, and that this tradition, apart from the high merits of the task itself, imposes upon them the solemn obligation of solving the Question completely and finally now that the opportunity of doing so presents itself free from all restraints of a selfish and calculating diplomacy. It is not only that the edifice of Religious Liberty in Europe has to be completed, but also that some six millions of human beings have to be freed from political and civil disabilities and social and economic restrictions which for calculated cruelty have no parallels outside the Dark Ages. The Peace Conference will have accomplished relatively little if a shred of this blackest of all European scandals is allowed to survive its deliberations.

This collection does not pretend to be complete. The aim has been only to illustrate adequately the main lines of the theme with a view to practical questions which may arise in connection with the Peace Conference. American documents have been only sparsely quoted, for the reason that the American Jewish Historical Society has already published a very full collection of such documents. (Cyrus Adler: "Jews in the Diplomatic Correspondence of the United States.") The many generous interventions of the Vatican on behalf of persecuted Jews have also been omitted partly for a similar reason (see Stern: "Urkundliche Beiträge über die Stellung der Päpste zu den Juden") and partly because they have very little direct bearing on the diplomatic activities of the Great Powers during the period under discussion.

My grateful acknowledgements are due to the Foreign Office for kindly permitting me to copy the documents relating to Palestine, which will be found appended to Chapter IV, and to Lieut. J. B. Morton, who was good enough to relieve me of much of the work of reading the proof-sheets. I have also to thank Mr. D. Mitrani for the generous help he gave me in preparing the Index.

L. W.

GRAY'S INN, LONDON.
December 1918.

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NOTES ON THE DIPLOMATIC HISTORY OF THE JEWISH QUESTION.

I. INTRODUCTION.

ON INTERNATIONAL RELIGIOUS LIBERTY GENERALLY.

THE Jewish Question is part of the general question of Religious Toleration. Together with the questions relating to the toleration of "Turks and Infidels," it raises the question of Religious Liberty in its most acute form. It is both local and international. Locally it seeks a solution through Civil and Political Emancipation on the basis of Religious Toleration. Internationally it arises when a State or combination of States which has been gained to the cause of Religious Toleration intervenes for the protection or emancipation of the oppressed Jewish subjects of another State. There have been, however, at least two occasions when the interventions have taken the contrary form of efforts to promote the persecution or restraint of Jews as such.¹

As an altruistic form of international action the principle of intervention has been of slow growth. It required an atmosphere of toleration on a wide scale, and, before this atmosphere could be created, Christian States had to learn toleration for themselves by a hard experience of its necessity. They had, in the first place, to secure toleration for their own nationals and the converts of their Churches in heathen countries where the people could not be coerced or lectured with impunity. In the next place they had to achieve toleration among themselves.

¹ *Infra*, pp. 57-62 and Appendix.

Toleration among the Christian Churches—the so-called peace of Christendom—became necessary owing to the struggle between the Reformation and the Counter-Reformation; but it took the Thirty Years' War to prove its necessity. The proof is embodied for all time in the Peace of Westphalia—chiefly in the Treaty of Osnabruck, which was signed in 1648, at the same time as the famous Treaty of Münster. The ostensible effect of the Peace of Westphalia was to place Roman Catholicism and Protestantism on an equal legal footing throughout Europe. A secondary effect was to give a very marked stimulus to the cause of Religious Liberty generally. We may recognise its first fruits in, among other things, the campaign for unrestricted religious toleration during the Commonwealth in England, and its application to the Jews.²

It was not until 1814 that this principle was extended by Treaty beyond the pale of Christendom. This was in the Protocol of the four allied Powers—Great Britain, Russia, Prussia, and Austria—by which the union of Belgium with Holland was recognised. The return of the House of Orange to the Netherlands after the fall of Napoleon had entailed the promulgation of a new Constitution, which, in view of the democratic traditions of the French occupation, was necessarily of a liberal type. Among its concessions was an article granting the fullest religious liberty. When the Powers were called upon to sanction the union with Belgium, they did so on condition that the new Constitution should be applied to the whole country, and, in view of the religious differences prevailing, emphasised the article on Religious Liberty. This is the form in which it appears in the Protocol:—

Art. I.—Cette réunion devra être entière et complète, de façon que les 2 Pays ne forment qu'un seul et même État régi par la Constitution déjà établie en Hollande, et qui sera modifiée, d'un commun accord, d'après les nouvelles circonstances.

Art. II.—Il ne sera rien innové aux Articles de cette Constitution qui assurent à tous les Cultes une protection et une faveur égales, et garantissent l'admission de tous les Citoyens, quelle que soit leur croyance religieuse, aux emplois et offices publics.

² Wolf: *Menasseh b. Israel's Mission to Oliver Cromwell*, pp. xviii et seq.

Incidentally the legal effect of this stipulation was to emancipate the Dutch Jews, though, as a matter of fact, the few disabilities under which they laboured did not immediately disappear. The Protocol was afterwards ratified by the Congress of Vienna and added to the Final Act as part of the Tenth Annex, ^{2a} though in other respects the Congress did not evince a very generous conception of Religious Liberty.

The conquest of religious liberty for Christians in heathen lands was a more convincing object lesson than the Peace of Westphalia. It was difficult for one Christian Church to acknowledge its equality with another Christian Church and to tolerate heresy, but it was far more distasteful to have to come to terms with the heathen and to accept toleration at his hands.

This was not altogether an altruistic form of political action. It was in some of its aspects part of the elementary duty of every State to protect its nationals in foreign countries.

The earliest instances of this action we find in China, where, in the thirteenth century, the Papacy concluded Treaties with the Mongol Emperors for the protection of Christian Missions.³ It was not, however, until the Treaty of Tientsin in 1858 that Great Britain and France secured religious liberty for Christians in China.

In the Mussulman Levant, toleration for foreign Christians was secured by the so-called Capitulations. These were, in effect, treaties, although they were in the form of grants by the Sultans. They gave large extraterritorial jurisdiction to the Ambassadors and Consuls of the States on whom they were conferred. The earliest grant of this kind occurs in the ninth century, when the Emperor Charlemagne obtained guarantees for his subjects visiting the Levant from the famous Khalif Haroun al-Rashid.⁴ Later on, all the leading Christian States negotiated Capitulations with the Sultans. The existing British Capitulations are dated 1675, but an earlier grant was made in 1583.

One of the main objects of the Capitulations, besides personal security and trading rights, was to assure religious liberty for the

^{2a} The Protocol was accepted by the Dutch King on July 21, 1814. Its text will be found in *British and Foreign State Papers*, ii. 141-142.

³ Guasco: "L'Eglise Catholique et la Liberté Religieuse dans l'Empire Chinois" (*Revue Générale de Droit International Public*, x. 53 et seq.

⁴ Verney and Dambmann: *Puissances Etrangères dans le Levant*, pp. 69-80.

nationals of the grantees. This benefited Jews at an early date, as the Capitulations and similar treaties generally provided for certain immunities for the native interpreters, servants and other employees of the privileged foreigners. As Jews were frequently so employed, they thus acquired protection against Moslem fanaticism.

In this way arose the system of Consular Protection which was long a boon to Jews in the Ottoman Empire and in the Barbary States.⁵

In spite of these experiences the idea of diplomatic intervention for the promotion of religious toleration in foreign States, especially on behalf of non-Christians, has only prevailed within narrow limits. It has been largely circumvented by the fact that such interventions must, even with the best will in the world, be more or less conditioned by the *raison d'état*. Unless they are likely to promote policy, or at any rate to coincide with policy, the usual course when they are invoked is to take refuge in the so-called principle of non-intervention.

It was, indeed, not until the seventeenth century that the question was seriously discussed at all by the jurists, although Cromwell had already laid down the splendid principle, in the case of the persecution of the Vaudois, that "to be indifferent to such things is a great sin, and a deeper sin still is it to be blind to them from policy or ambition." The first impulses of the international lawyers were much in the Cromwellian spirit. Bacon, Grotius, and Puffendorff all strongly maintained the legality not only of diplomatic but also of armed intervention to put down tyranny or misgovernment in a neighbouring State, and a century later they were followed by Vattel. Sweden acted upon the principle in her intervention on behalf of the Protestants of Poland in 1707, and, in 1792, it was given its widest scope, and was formally adopted, by the French Revolution in the famous decree of the Convention which promised "fraternity and succour to all peoples who wish to recover their liberty."

The doctrine, however, lingered only anæmically through the early decades of the nineteenth century. In face of the growing delicacy of the international system, it was gradually abandoned for the conservative principle of non-intervention, based on the

⁵ *Infra*, pp. 83 *et seq.*

independence and equality of all States.⁶ But even this principle has not always been observed in regard to small States, although, curiously enough, Russia invoked it against Great Britain for the protection of King "Bomba" of Sicily, in the case of the Neapolitan prison horrors.⁷ Abstention from intervention in certain glaring cases of inhumanity by foreign Governments—such as the persecution of the Russian Jews—has been defended on the ground of absence of treaty rights, but, as a matter of fact, this argument, too, has not been consistently adhered to.⁸ In all cases, whether of great or small States, treaty rights or no treaty rights, the real test has almost always been the frigid *raison d'état*. The United States has been less affected by this restriction than the European Powers, and on many occasions has shown a really noble example of the purest altruism in international politics.^{9a}

⁶ The historical and juridical aspects of the question have been fully discussed by Professor Rougier in the *Revue Générale de Droit International Public*, xvii. 468 *et seq.*

⁷ Martin: *Life of the Prince Consort*, iii. 510–511.

⁸ For a vigorous exposition of the duty of civilised States in such cases, see Prof. A. Dicey's introduction to *Legal Sufferings of the Jews in Russia*, p. x.

^{9a} See Straus: *The American Spirit* (New York). For documentary examples relating to the Jews, see Cyrus Adler: *Jews in the Diplomatic Correspondence of the United States*.

II. INTERVENTIONS ON GROUNDS OF HUMANITY.

LONG before the Peace of Westphalia an attempt was made by the famous Jewess, Donna Gracia Nasi, to obtain protection for her persecuted co-religionists by diplomatic action, and it proved successful. The circumstances will be narrated presently.⁹ It stood, however, alone for two hundred years. Even after the Peace eminent Jews, who sought in a like way to enlist the sympathy and help of European governments, failed. Menasseh ben Israel made representations in this sense on behalf of the oppressed Jews of Poland, Prussia, Spain, and Portugal to both Queen Christina of Sweden and Oliver Cromwell, but although he met with much and genuine sympathy he found the *raison d'état*—and probably also a lingering reluctance to regard Jews as quite within the pale of humanity—too strong for him.¹⁰ A decade later a similar attempt was made by Fernando Mendes da Costa, one of the founders of the Anglo-Jewish Community, and a member of a very distinguished Portuguese Marrano family. From a letter of his which is still extant,¹¹ it seems that he was deeply concerned in helping the persecuted Marranos in Spain and Portugal, and he had a scheme for organising an emigration of his hapless brethren on a large scale to Italy and England. He received much help from Don Francisco Manuel de Mello, the distinguished Portuguese soldier, author and diplomatist, and through him interested Queen Katharine of Braganza and Charles II in the scheme. It appears, too, that, with the support of these eminent personages, the scheme was brought to the notice of the Pope, but of its subsequent fate we know nothing.

⁹ *Infra*, pp. 63-64.

¹⁰ Kayserling: "Menasseh b. Israel" (*Misc. Heb. Lit.* ii. 29); *Harleian Miscellany*, vii. 618.

¹¹ Brit. Mus. Add. MSS. 29,868, f. 1.

(a) PERSECUTION OF THE JEWS IN BOHEMIA (1744-45).

The earliest actual intervention of a Great Power on behalf of the Jews on humanitarian grounds took place in 1744-45, when Great Britain and Holland made strong and successful representations to the Government of the Empress Maria Theresa for the protection of the Jews of Bohemia and Moravia. The intervening Powers were allies of the Empress in the War of the Austrian Succession which was then raging. During the war some prejudice had been caused to the Austrian Jews through the imprudence of some of their co-religionists in Lorraine, who had obtained "safe conducts" from the French Military Authorities to enable them to cross the frontier into France. Reprisals against the Jews in Bohemia and Moravia were taken by the Empress in the shape of a decree of wholesale banishment. The decree was enforced with the utmost severity, and over 20,000 Jews were compelled to leave Prague in the depth of winter, with little or no prospect of finding shelter elsewhere. Appeals for help were addressed to foreign communities, and among the recipients of them was Aaron Franks, then presiding Warden of the Great Synagogue in London. Together with his wealthy and influential relative, Moses Hart, he at once petitioned King George, who consented to receive him in personal audience. His Majesty manifested every sympathy with the persecuted Jews, and the result was that the British Ambassador in Vienna¹² was instructed to make representations, in concert with the Dutch Ambassador, to the Austrian Government. The representations were received in excellent spirit, and, in deference to them, the Empress consented to revoke the decree and permit the Jews to return to their homes.¹³

DOCUMENTS.

PETITION TO KING GEORGE II (*B.M. Add. MSS.* 23,819, f. 63).

To his Most Sacred Majesty

The Petition of Moses Hart and Aaron Franks of the City of London
Merchants In behalf of their Brethren the Distressed Jews of the
Kingdom of Bohemia.

¹² Sir Thomas Robinson, "the infatigable Robinson" of Carlyle's *Frederick*, afterwards Lord Grantham.

¹³ Graetz: *Geschichte der Juden*, x. 393-394.

Humbly Sheweth

That your Majesty's Petitioners have receiv'd a Copy of an Edict published and Issued by Her Majesty the Queen of Hungary from their said Brethren the Jews of the said Kingdom of Bohemia by which (together with several letters that have been transmitted to them Requesting them to Commiserate their distress'd condition and Interceed with his Brittanick Majesty on their behalf) it appears that their said Brethren are to be utterly Expelled the said Kingdom and that by the last day of January next Ensuing No Jew is to be found in any of the Towns belonging to Prague. That after the Expiration of six Months to be accounted from the said last day of January No Jew is to be suffered or found in the Hereditary Dominion of her said Majesty, and in case any should be found they are to suffer Military Chastisement.

Your Petitioners most humbly beg leave to observe that in the said Edict there is no reason or cause assign'd for the Expulsion of their said Brethren who therefore Suspect that it is fomented by their inveterate enemies for motives which they cannot account for as they have always acted as dutiful, Faithful and Loyal Subjects to their most Gracious Sovereign the said Queen of Hungary even during the many Revolutions that have happened in Prague within these few Years and notwithstanding the great Devastation and Excesses which Naturally occur'd therefrom they have continued and still do continue firm and unshaken in their Principles of Affection & Fidelity to her said Majesty and her most Illustrious House.

Your Petitioners far from Vindicating any Particular Persons in the Crimes they may have committed during the last Revolution (if any such there are) desire Adequate Punishments to be inflicted on them; but humbly hope that the Innocent will not be permitted to suffer for Crimes which they have in no wise been Accessary to and humbly Remonstrate that the Expulsion of fifty thousand Familys and upwards from their Native Country at so critical a Juncture who (as Your Petitioners are informed and believe) always Contributed and Concurr'd in strengthening her Majesty's hands against her Enemies must in its consequences prove Detrimental and Prejudicial to the true Interest of the common Cause and more immediately so to her Hungarian Majesty.

In tender Consideration whereof Your Petitioners (in behalf of the aforesaid distress'd people) most humbly Supplicate your Majesty in your great & known Equity & Compassion to Interpose Your Majesty's Good Offices upon this Occasion with the Queen of Hungary in order to prevail upon her said Majesty to revoke the said Edict or at least to Suspend the time of the Expulsion of their said Brethren & to establish a Commission of Enquiry in order to discriminate the Innocent from the

Guilty and Punish those only who have deserv'd her said Majesty's Displeasure.

And Your Petitioners as in duty bound shall ever pray &c.

MOSES HART.

AARON FRANKS.

(Endorsed :)

MOSES HART & AARON FRANKS Petition in behalf of the Bohemian

Jews &c. in Ld. Harrington's of the $\frac{28 \text{ Decr.}}{8 \text{ Jany.}}$ 1745.

sent to Sir Thos. Robinson 27 [*sic*] Decr. 1744.

APPEAL OF THE BOHEMIAN JEWS (*Ibid.* f. 64).

PRAGUE, 1st Decr. 1744. N.S.

It is Certainly very Notorious all the Callamities Which have overwhelm'd us to such a Degree that we had hardly power to Withstand them. but None were in Competition with this Last. by a Decree from her Majesty our Sovereign Queen of Hungaria. To Banish all the Jews out of the Kingdom of Bohemia. Within the Term of 5 Weeks. Which is the Latter End of January for those in Prague. & those in Bohemia are allow'd 6 Months. as appears by the original Decree of Her Majesty—Therefore What shall we poor Souls do, in the first place, the Children Women, infirm & Aged. Which are not in a Condition to Walk. Especially at this present Juncture Being Cold & frosty Weather. Likewise In the Condition we are at Present in for the Stript many Hundreds quite to their shirts. Not only that. but the World Is Closed to us. by reason all Roads are filled with Troops. Which way Soever we Turn we Can find no Relief. Neither do we know the reason for the Decree. Excepting some false persons. Who Contrive falsities on purpose To breed ~~fl~~ will against us by our Lords Who Protected us. Which they have Done.

Therefore Brethren. We Humbly Beg you wou'd Commiserate our Condition Considering the Eminent Danger Many Thousands Souls are in by this Decree. & Not Delay Interceeding for Recommendations from all Courts that we may have time allowed us. for a Commission of Inquiry.

SIMON SPIRA &c

MOSES IZAAC.

SIMON COHEN.

MENAHEN MENDAL.

ABRAHAM.

SAMUEL SPIRA.

MEYER MOSES, &c.

(Endorsed :)

Representation from the Jews at Prague

Sent to Sir Thos. Robinson 28 Decr. 1744-5.
Jany 8.

THE DECREE OF THE EMPRESS (*Ibid.* fol. 66).

After Mature Deliberation We have been Induced by many weighty Reasons and Considerations to resolve and Determine that no Jew shall hereafter be Suffered or permitted to Dwell in our Hereditary Kingdom of Bohemia, which our Resolution, We Will Shall be put in Execution in Manner following.

1st. That on the last Day of the Month of January 1745 next Ensuing No Jew shall be found in any of our Towns belonging to Prague, and in Case any shall, Military Chastisement shall be inflicted on them.

2nd. They are hereby permitted to Stay and remain in the Kingdom six Months to be Accounted from the Latter end of December Instant and to Determine at the latter end of the Month of June 1745 to Settle their Affairs and in order to Dispose of their Effects Estate and Credit which they shall not be able to Carry with them by the last Day of January.

That after their retreat from Prâgue (towards the Country) on the last day of January as is aforementioned, No Jew shall be permitted to Reenter the said City by Day (without having a Certificate from the Commissary appointed to Execute the Contents hereof) and absolutely None shall be Suffered to Stay a Single Night ; And the Said Commissary is hereby Directed to take the Necessary Precautions for Executing this Our Will and Pleasure, and due Care that None of his Certificates be Improperly made use of by Enabling them to Enter the City too frequently excepting such as he shall grant thro' favour to the Principal Merchants who will stand in Greater Need than others of entering the City often.

3rd. After the Determination of the said Six Months all the Jews shall quitt all our Hereditary Kingdom of Bohemia and Shall Never more be found on the Borders thereof, and in Case any Shall, Military Chastisement shall be inflicted on them as aforesaid.

4th. Our Meaning and Intention is not only that the Jews of the City of Prague and all others who live in any Part of our Hereditary Kingdom of Bohemia shall quitt the Same within the Thirtieth day of June 1745 but also that No Jew shall on the said Day be found in the said Kingdom or Settle in any of our Hereditary Countrys.

5th. And we do hereby Ordain and Appoint our Trusty and Well-beloved Privy Councillor and Vice President of the Royal Bohemian Kingdom The Right Honourable Philip Knakowsky Count Collowrath

punctually to perform the Contents hereof hereby requiring all and Every Person whom these Presents or the Execution thereof may Concern to aid and Assist the said Philip Count Collowrath and Do hereby further Positively Order that the Contents hereof be Published in the Towns belonging to Prague and our whole Country to the End that no Intelligence be given thereof to those who Shall have any Dealings and Transactions with Jews. Witness Ourself

Given at Vienna the 18th day of December 1744.

INSTRUCTIONS TO THE BRITISH AMBASSADOR IN VIENNA (*Ibid.* fols. 61–61d.).

Separate.

WHITEHALL, 28th Decr. 1744.

SIR,—The principal Merchants of the Jewish Nation established here, having made an humble Application to His Majesty, that he would be pleased to intercede with the Queen of Hungary for a Reversal of the Sentence passed upon Their Brethren in Bohemia (amounting, as They affirm, to no less than Sixty Thousand Families), by Her Majesty's late Edict, whereby They are ordered to depart that Kingdom in Six Months time, and His Majesty finding that the States General have already interposed Their Good Offices in Their Behalf: It is the King's Pleasure, that you should join with Mor. Burmannia in endeavouring to dissuade the Court of Vienna from putting the said Sentence in Execution, hinting to Them in the tenderest and most friendly Manner, the Prejudice that the World might conceive against the Queen's Proceedings in that Affair, if such Numbers of innocent People were made to suffer for the Fault of some few Traytors, and, at the same time, shewing Them, the great Loss that would accrue to Her Majesty's Revenue, and to the Wealth and Strength of her Kingdom of Bohemia, by depriving it at once of so vast Numbers of it's Inhabitants: You will find inclosed the Petition presented to His Majesty by the Jews here, as above-mentioned, together with the Representation sent hither to Them from Those in Bohemia, and I am to add to what is above, that, as His Majesty does extremely commiserate the terrible circumstances of Distress to which so many poor and innocent Families must be reduced, if this Edict takes place, He is most earnestly desirous of procuring the Repeal of it by His Royal Intercession, in such Manner that the Guilty only may be brought to Punishment; for obtaining which, you are to exert yourself with all possible Zeal and Diligence.

I am, Sir,

Your most obedient humble Servant,

HARRINGTON.

SIR THOMAS ROBINSON.

(b) CONGRESS OF VIENNA (1815).

The next appearance of the Jewish Question in the field of international politics was at the Congress of Vienna, sixty years later. The Congress was not favourable to liberal reforms of any kind, either national or religious. Its aim was to vindicate the vested interests of Legitimism against the doctrines of the French Revolution. In its final shape the policy of the Congress was embodied in the Holy Alliance. British foreign policy, then under the guidance of Castlereagh, was distinctly favourable to this policy. Nevertheless, there were curious cross-currents at the Congress, and what liberalism there was came, strangely enough, in large part from the Russian Tsar, Alexander I. He had moments of liberalism so pronounced that Metternich called him "the crowned *sans-culotte*."

It is curious to note that the Jewish Board of Deputies in England did not move during the Congress. The reason is perhaps not difficult to understand. They were always timid in regard to high politics, and, in 1783, when it was proposed to address the King on the American Peace, they actually passed a resolution declaring that it was their duty to avoid such "political concerns."¹⁴ In the case of the Congress of Vienna, however, they may well have felt that they could not touch the question of religious liberty, and especially of Jewish emancipation, without risking an imputation of Jacobinism. Moreover, the British Cabinet then in power was a Coalition Cabinet of pro-Catholics and anti-Catholics, and they could not well listen to any proposals that they should champion Jewish emancipation in Vienna, while in Downing Street the question of Roman Catholic emancipation could not even be discussed.

Fortunately, these considerations did not apply to the German Jews. Frankfurt and the Hansa towns sent deputations to Vienna to plead the cause of Jewish emancipation. The Frankfurt deputation was headed by Jacob Baruch, father of Ludwig Boerne. They managed to secure the support of both Hardenberg and Metternich, and when it was found that the Tsar was not averse from some concession to the Jews, they agreed to propose the insertion of a clause—

¹⁴ Emanuel: *A Century and a Half of Anglo-Jewish History*, p. 9.

or rather half a clause—in the Final Act of the Conference providing for the gradual extension of civil rights to the Jews of Germany.

Unfortunately for a long time this concession remained a dead letter, owing not only to the ill-will of the German Governments themselves, but to an apparently harmless verbal amendment which was introduced into the clause by the Redaction Committee at the last moment. In the final *alinea* it was stipulated that “the rights already conferred on the Jews in the several Federated States shall be maintained.” The object of this was to secure to the Jews of Germany the liberties granted to them by Napoleon during the French occupation. This design was frustrated by the Redaction Committee, at whose instance the word “*by*” was substituted for “*in*,” the result being that the rights secured to the Jews were not those of the French occupation, but only those which had been grudgingly, and in very small measure, granted to them by the Federated States themselves in the dark days before the Napoleonic irruption.

Thus the provision of the Treaty of Vienna relating to the Jews of Germany remained a dead letter, partly because of the amendment introduced into it at the last moment, and partly because the authorities had no intention of carrying it out. The Jews complained, and both Prussia and Austria, under the influence of Hardenberg and Metternich, protested.¹⁵ Nathan Rothschild in London brought the case of the recalcitrant Frankfurt authorities to the notice of the Duke of Wellington, who persuaded Castlereagh in 1816 to make representations with a view to their protection.¹⁶ All these efforts, however, proved futile, and Nathan Rothschild could only avenge himself by the public announcement that his firm would refuse to accept bills drawn in any German city where the Jews were denied their treaty rights.¹⁷

¹⁵ Graetz: *Geschichte*, xi. 324–328. See also Kohler: *Jewish Rights at International Congresses*, pp. 6–20.

¹⁶ *Diary of Sir Moses Montefiore*, 1817, p. 192. (Ramsgate Theological College MSS.) Kohler: *op. cit.* pp. 25–26.

¹⁷ Communication from the late Mr. Leopold de Rothschild. See also *Gentleman's Magazine*, Oct. 1819, p. 362.

DOCUMENTS.

The following is a list of the documents relating to the Jewish Question at the Vienna Congress given in Klüber: "Akten des Wiener Kongresses."

1. Unterthänige Vorstellung und Bittschrift der Israelitischen Gemeinde zu Frankfurt-am-Main an den hohen Kongress zu Wien mit Beilage übergeben daselbst am 10^{ten} Oktober 1814.

2. Schreiben des Deputierten der Israelitischen Gemeinde zu Frankfurt/M an den Königlichen-Preussischen ersten Herrn Bevollmächtigten Fürsten von Hardenberg wegen Erhaltung der von dem Grossherzog von Frankfurt jener Gemeinde bewilligten Rechtzustandes. Datirt Wien, 12^{ten} Mai, 1815.

3. Antwort seiner Durchlaucht des Fürsten von Hardenberg auf vorstehendes Schreiben. Datirt Wien, 18^{ten} Mai, 1815.

4. Erlass des Kaiserlich-Oesterreichischen ersten Bevollmächtigten und Kongress-Präsidenten Herrn Fürsten von Metternich an die Deputierten der Israelitischen Gemeinde der Stadt Frankfurt-am-Main als Antwort auf die von diesen an den Kongress eingereichte Bittschrift. Datirt Wien, 9^{ten} Juni, 1815.

5. Anmerkung des Herausgebers (Klübers) zu vorstehenden Erlass an die Deputierten der Israelitischen Gemeinde zu Frankfurt-am-Main.

6. Note des Kaiserlich-Oesterreichischen Herrn Bevollmächtigten und Kongress Präsidenten Fürsten von Metternich, wodurch derselbe dem Bevollmächtigten der freien Stadt Frankfurt Herrn Syndicus Danz die von dem allerhöchsten verbündeten Mächten, neuerdings erfolgte Bestätigung der Selbständigkeit und Freiheit der Stadt Frankfurt anzeigt. Datirt Wien, 9^{ten} Juni, 1815 mit einer Beilage.

7. Accessions Urkunde der freien Stadt Frankfurt.

(See also documents relating to the abolition of the Feudal land-tenure System on the left bank of the Rhine, effected during the domination of the French revolutionary Government, vol. vi., pp. 396-426.)

8. Erlass des Kaiserlich-Oesterreichischen ersten Bevollmächtigten und Kongress Präsidenten Fürsten von Metternich an den Bevollmächtigten Israelitischen Gemeinden Deutschland Doktor und Advokaten Carl August Buchholz aus Lübeck betreffend die Verbesserung des Rechtzustandes der Juden, vol. 9, p. 334.

The Article of the Final Act relating to the Jews is Article XVI of Annexe IX, "Acte sur la Constitution Fédérative de l'Allemagne." It runs as follows :—

XVI.—La différence des Confessions Chrétiennes dans les Pays et Territoires de la Confédération Allemande, n'en entraînera aucune dans la jouissance des droits civils et politiques.

La Diète prendra en considération les moyens d'opérer de la manière la plus uniforme, l'amélioration de l'état civil de ceux qui professent la Religion Juive en Allemagne, et s'occupera particulièrement des mesures, par lesquelles on pourra leur assurer et leur garantir dans les États de la Confédération, la jouissance des Droits Civils, à condition qu'ils se soumettent à toutes les obligations des autres Citoyens. En attendant les Droits accordés déjà aux Membres de cette Religion par tel ou tel État en particulier, leur sont conservés.

(British and Foreign State Papers, vol. ii. pp. 132-3.)

(c) THE CONGRESS OF AIX-LA-CHAPELLE (1818).

At the Congress of Aix-la-Chapelle, the question was once more brought before the Great Powers. This time the initiative was taken by a well-known English conversionist, the Rev. Lewis Way, of Stanstead, Sussex. There was, however, no trace of conversionism in his efforts on this occasion, and there can be no question that the Jewish Community owe him a great debt of gratitude. He proceeded to Aix some weeks before the Congress met, and presented to the Tsar Alexander a short scheme of Jewish emancipation. The Tsar encouraged him to amplify it, and this he did in two elaborate memoirs, one describing the situation of the Jews, and the other embodying a scheme under which they might be invested with civil rights. To this he added a short memorandum drawn up at his request by Dohm, the veteran champion of the Jews, who came to Aix for that special purpose. By command of the Tsar, these documents were presented to the Congress at its sitting on November 21, 1818, and were made the subject of a special Protocol, in which sympathy was expressed for "the praiseworthy object of his proposals." The plenipotentiaries further declared that the solution of the Jewish Question was a matter which should "equally occupy the statesman and the friend of humanity."¹⁸ It is interesting to note that in his

¹⁸ *Infra*, p. 16. The Protocol does not appear in the Protocols of the Congress published in the *British and Foreign State Papers*, and is usually excluded from the official records of the Congress. Its text is, however, given in Way's *Mémoires* (Paris, 1819) as an unpaginated Appendix.

scheme Way declares himself to be a believer in Jewish Nationalism, and it is for this reason that he does not ask for more than civil rights for the Jews, as he regards their exile in Europe as an intermediate stage of their history. In this he was probably influenced by the prevalent anti-French atmosphere, inasmuch as the French Jews, in their compact with Napoleon, made by the Sanhedrin in 1806, had solemnly repudiated Jewish Nationalism, and had thus rendered themselves eligible for political, as well as civil, rights.¹⁹

DOCUMENT.

For the texts of the documents referred to above see "Mémoires sur l'état des Israélites, dédiés et présentés à leur Majestés Impériales et Royales, Réunies au Congrès d'Aix-la-Chapelle" [by the Rev. Lewis Way, A.M.], Paris, 1819.

The Protocol of the Congress at which these "Mémoires" were considered runs as follows:—

PROTOCOLE.

*Séance du 21 Novembre, 1818.
Entre les cinq Cabinets.*

Messieurs les SS. de Russie ont communiqué l'imprimé ci-joint, relatif à une réforme dans la législation civile et politique en ce qui concerne la nation juive. La conférence, sans entrer absolument dans toutes les vues de l'auteur de cette pièce, a rendu justice à la tendance générale et au but louable de ses propositions. MM. les SS. d'Autriche et de Prusse se sont déclarés prêts à donner, sur l'état de la question dans les deux monarchies, tous les éclaircissements qui pourraient servir à la solution d'un problème qui doit également occuper l'homme d'état et l'ami de l'humanité.

Signé : METTERNICH.

RICHELIEU.

CASTLEREAGH.

WELLINGTON.

HARDENBERG.

BERNSTORFF.

NESSELRODE.

CAPODISTRIAS.

¹⁹ *Procès-Verbal des Séances de l'Assemblée Juive* (Paris, 1806), pp. 47-49; *Actes du Grand Sanhédrin*, pp. 65-73, 83, 90-91.

(d) THE CONFERENCE OF LONDON (1830).

The growing symptoms of an impending break-up of the Ottoman Empire visibly extended the practical applications of the doctrine of religious liberty in the field of international politics. In emancipating the Christian feudatories of the Porte, account had to be taken of the large Moslem and Jewish minorities inhabiting those States. It was impossible to emancipate the Christians and at the same time to place non-Christians under disabilities, especially where they had governments of their own faith to whom they might appeal and who might resort to reprisals. Hence, the parity of all religions in the Levant had to be recognised.

The point first arose in the settlement of the Greek question in 1830. In this question it was not only the Moslems who had to be considered. France renounced in favour of the new Kingdom her Protectorate over the Catholics, which she derived from her capitulations with Turkey. Hence, besides the Moslems, guarantees had to be exacted for the religious liberty of Catholics in Greece. These guarantees were the subject of the third Protocol of the Conference of London, February 3, 1830. At the same time it was stipulated that there should be perfect equality for the subjects of the new State, whatever might be their religion. Neither Moslems nor Jews were expressly mentioned, but it is in virtue of this Protocol that the Jews of Greece enjoy their present status as Greek Nationals. The Jews of Greece were thus the first Jews of the Levant to be fully emancipated.

DOCUMENT.

PROTOCOL No. 3 of the Conference held at the Foreign Office, London,
on 3 February, 1830.

Present :

The Plenipotentiaries of Great Britain, France and Russia,

The Prince Leopold of Saxe-Coburg having been called, by the united suffrages of the three Courts of the Alliance, to the Sovereignty of Greece, the French Plenipotentiary requested the attention of the Conference to the particular situation in which his Government is placed, relative to a portion of the Greek population.

He represented that for many ages France has been entitled to exercise, in favour of the Catholics subjected to the Sultan, an especial protection, which His Most Christian Majesty deems it to be his duty to deposit at the present moment in the hands of the future Sovereign of Greece, so far as the provinces which are to form the new State are concerned; but in divesting himself of this prerogative, His Most Christian Majesty owes it to himself, and he owes it to a people who have lived so long under the protection of his ancestors, to require that the Catholics of the continent and of the islands shall find in the organization which is about to be given to Greece, guarantees which may be substituted for the influence which France has hitherto exercised in their favour.

The Plenipotentiaries of Great Britain and Russia appreciated the justice of this demand; and it was decided that the Catholic religion should enjoy in the new State the free and public exercise of its worship, that its property should be guaranteed to it, that its bishops should be maintained in the integrity of the functions, rights and privileges, which they have enjoyed under the protection of the Kings of France, and that, lastly, agreeably to the same principle, the properties belonging to the antient French Missions, or French Establishments, shall be recognized and respected.

The Plenipotentiaries of the three Allied Courts being desirous moreover of giving to Greece a new proof of the benevolent anxiety of their Sovereigns respecting it, and of preserving that country from the calamities which the rivalry of the religions therein professed might excite, agreed that all the subjects of the new State, whatever may be their religion, shall be admissible to all public employments, functions, and honours, and be treated on the footing of a perfect equality, without regard to difference of creed in all their relations, religious, civil or political.

(Signed) ABERDEEN
MONTMOREN Y-LAVAL.
LIEVEN.

(Holland: "The European Concert in the Eastern Question," pp. 32, 33.)

(e) THE CONGRESS OF PARIS (1856-1858).

The Jewish Question was more expressly discussed twenty-six years later, at the Congress of Paris, and the subsidiary conferences which had to settle the great political problems arising out of the Crimean War. Meanwhile, under the influence of Sir Moses Montefiore, and more especially of his jealousy of M. Crémieux, the Jewish Board

of Deputies had plucked up a measure of courage, and had begun to take a more active interest in the larger political questions which involved the future of their foreign co-religionists. In the international discussions of the question of religious liberty which preceded the outbreak of war, the Powers only concerned themselves with the Christian communities. The French Jews at once took alarm, and the Central Consistory addressed the Emperor Napoleon III and applied to the Board of Deputies in London to make similar representations to the British Government. Both bodies had, however, been anticipated by the personal activity of the Rothschilds in Paris and London. Baron James, through his gifted friend and co-worker, Albert Cohn, had already entered into direct negotiations with the Turkish Government, and Baron Lionel and Sir Anthony de Rothschild had interviewed Lord Clarendon, who, at their instance, had given instructions to Lord Stratford de Redcliffe to take special note of the Jewish Question. Thus, when the letter of the French Consistory was read at the Meeting of the Board of Deputies on April 24, 1854, that body found that it had little to do. Nevertheless, it addressed a formal letter to Lord Clarendon on May 10, and, five days later, received an assurance from him that it might rely on a favourable consideration of the situation of the Jews of Turkey at the hands of His Majesty's Government.²⁰

Nevertheless, the Treaty of Paris of 1856, which more or less settled all the questions arising out of the war, does not mention the Jews in any of its articles. This is not to say that it did not fulfil Lord Clarendon's pledges. As a matter of fact, it deals with both the situation of the Jews in Turkey and with that of the Jews in the liberated Principalities of Moldavia and Wallachia. Thus, Article IX, which takes note of the Turkish *Hatti-Humayoun* of February 18, 1856, is intended to refer to the Jews as well as to all other non-Mussulmans. The history of this aspect of the Article is a little curious. Shortly after the outbreak of the war in 1854, Turkey prepared a draft treaty of peace containing an article providing for the religious liberty of Christian communities. Through the inter-

²⁰ Emanuel: *op. cit.*, p. 66. The facts are given more fully by Loeb: *Biographie d'Albert Cohn* (Paris, 1878), pp. 48-49.

position of Baron James de Rothschild of Paris, this article was reconsidered, and another was inserted granting equal rights to all Ottoman subjects, without distinction of creed. This was the germ of the famous *Hatti-Humayoun*. That the latter was intended to deal equally with Jews and Christians is shown by its Article II, in which the same privileges are expressly granted to the Turkish Grand Rabbis as to the ecclesiastical heads of the Christian confessions.²¹

The absence of any direct reference to the Jews, or even to equal rights for all religious communities in the Principalities, is less satisfactory. The omission is in the first place due to the circumstance that the Treaty in itself is incomplete. Articles XXIII, XXIV, and XXV refer the question of the constitutional reorganisation of the Principalities to a Commission which was to meet at Bucharest and consult Divans of the two Principalities with a view to making the necessary recommendations to the Powers.²² This Commission did not report until 1858, when its proposals were considered by a fresh Conference of the Powers, which based upon them the scheme embodied in the Convention of Paris of August 19 of that year. The question of religious liberty is dealt with in Article XLVI of that instrument.²³ Originally it was intended to assure complete emancipation and equality for all non-Christian communities in the Principalities, and articles to this effect were adopted by the preparatory Conference of Constantinople, in its Protocol of February 11, 1856, with the express design of relieving the Jews, whose sufferings had already become a matter of European notoriety.²⁴ The Rumanians, however, were already strongly hostile to Jewish emancipation, and the reigning Prince of Moldavia misled the Powers with specious promises of a type which has since become bitterly familiar to the Jews all over the world.²⁵ The Report of the Bucharest Commission

²¹ Loeb: *op. cit.*, p. 49 (supplemented by private sources), Holland: *The European Concert in the Eastern Question*, p. 330.

²² Holland: *op. cit.*, pp. 233-234, 251.

²³ *British and Foreign State Papers*, xlviii. 78.

²⁴ Loeb: *Situation des Israélites en Turquie, en Serbie, et en Roumanie* (1877), p. 200.

²⁵ *The Jews and the War*, No. 1 (1917), pp. 15-16. (Privately printed by Jewish Conjoint Committee.)

of 1858 accepted these promises and excluded all references to Religious Liberty from its scheme.²⁶ The first draft of the Convention submitted to the Conference of the Powers did likewise,²⁷ but ultimately a compromise amendment was introduced by which the Powers agreed (Art. XLVI) to limit political rights to Christians, while providing for the extension of these rights to non-Christians by subsequent legislative arrangements.²⁸ This concession to the Rumanians was made on the express pledge that the original scheme of the Conference at Constantinople would be gradually realised.²⁹ Needless to say, the pledge was never fulfilled. In dealing, however, with the question, the Convention of Paris had one merit. It lent no support to the subsequent theory of the Rumanians, that the Jews were foreigners in a secular sense in their own country, but, on the contrary, assumed that their status was as much that of Moldavians and Wallachians as was the status of the native Christians.

DOCUMENTS.

ARTICLE IX. OF THE TREATY OF PARIS. *March 30, 1856.*

Art. IX. His Imperial Majesty the Sultan, having, in his constant solicitude for the welfare of his subjects, issued a Firman³⁰ which, while ameliorating their condition without distinction of religion or of race, records his generous intentions towards the Christian populations of his Empire, and wishing to give a further proof of his sentiments in that respect, has resolved to communicate to the Contracting Parties the said Firman emanating spontaneously from his sovereign will.

The Contracting Powers recognise the high value of this communication. It is clearly understood that it cannot, in any case, give to the said Powers the right to interfere, either collectively or separately, in the relations of His Majesty the Sultan with his subjects, nor in the internal administration of the Empire.

(Holland: "European Concert," &c., p. 246.

EXTRACTS FROM THE HATTI-HUMAYOUN OF FEB. 18, 1856.

I. Les garanties promises et accordées à tous nos sujets par le *Hatti-cherif* de Gulhané et par les lois du *Tanzimat*, sans distinction de culte, pour

²⁶ *British and Foreign State Papers*, xlviii. 97.

²⁷ *Ibid.* p. 113.

²⁸ *Ibid.* p. 120. ²⁹ *Jews and the War*, No. 1 (1917), pp. 15-16.

³⁰ The *Hatti-Humayoun* (see next document).

la sécurité de leur personne et de leurs biens, et pour la conservation de leur honneur, sont rappelées et consacrées de nouveau ; il sera pris des mesures efficaces pour que ces garanties reçoivent leur plein et entier effet.

II. Sont reconnus et maintenus, en totalité, les immunités et privilèges spirituels donnés et accordés par nos illustres ancêtres, et à des dates postérieures, aux communautés chrétiennes et autres, non musulmanes, établies dans notre empire, sous notre égide protectrice. . . . Les patriarches, métropolitains (archevêques), délégués et évêques, ainsi que les grands-rabbins, prêteront serment à leur entrée en fonctions, d'après une formule qui sera concertée entre notre Sublime-Porte et les chefs spirituels des différentes communautés.

III. . . . L'administration des affaires temporelles des communautés chrétiennes et autres, non musulmanes, sera placée sous le sauvegarde d'un conseil, dont les membres seront choisis parmi le clergé et les laïques de chaque communauté.

VII. Le gouvernement prendra les mesures énergiques et nécessaires pour assurer à chaque culte, quel que soit le nombre de ses adhérents, la pleine liberté de son exercice.

VIII. Tout mot et toute expression ou appellation tendant à rendre une classe de mes sujets inférieure à l'autre, à raison du culte, de la langue ou de la race, sont à jamais abolis et effacés du protocole administratif.

IX. La loi punira l'emploi, entre particuliers, ou de la part des agents de l'autorité, de toute expression ou qualification injurieuse ou blessant.

X. Le culte de toutes les croyances et religions existant dans mes États, y étant pratiqué en toute liberté, aucun de mes sujets ne sera empêché d'exercer la religion qu'il professe.

XI. Personne ne sera ni vexé, ni inquiété à cet égard.

XII. Personne ne sera contraint à changer de culte ou de religion.

XIII. Les agents et employés de l'État sont choisis par nous ; ils sont nommés par décret impérial ; et comme tous nos sujets, sans distinction de nationalité, seront admissibles aux emplois et services publics, ils seront aptes à les occuper, selon leur capacité, et conformément à des règles dont l'application sera générale.

XIV. Tous nos sujets, sans différence ni distinctions, seront reçus dans les écoles civiles et militaires du gouvernement, pourvu qu'ils remplissent les conditions d'âge et d'examen spécifiés dans les règlements organiques des dites écoles.

XV. De plus, chaque communauté est autorisée à établir des écoles publiques pour les sciences, les arts et l'industrie ; seulement le mode d'enseignement et le choix des professeurs de ces sortes d'écoles seront placés sous l'inspection et le contrôle d'un conseil mixte d'instruction publique, dont les membres seront nommés par nous.

(Holland : *op. cit.*, pp. 330-332.)

CONFERENCES OF CONSTANTINOPLE (1856).—*Protocol of Feb. 11.*

XIII. Tous les cultes et ceux qui les professent jouiront d'une égale liberté et d'une égale protection dans les deux principautés.

XV. Les étrangers pourront posséder des biens-fonds en Moldavie et en Valachie, en acquittant les mêmes charges que les indigènes, et en se soumettant aux lois.

XVI. Tous les Moldaves et tous les Valaques seront, sans exception, admissibles aux emplois publics.

XVIII. Toutes les classes de la population, sans aucune distinction de naissance ni de culte, jouiront de l'égalité des droits civils, et particulièrement du droit de propriété, dans toutes les formes; mais l'exercice des droits politiques sera suspendu pour les indigènes placés sous une protection étrangère.

(Ubicini, "La Question des Principautés," p. 13.)

ART. XLVI OF THE CONVENTION OF PARIS OF AUGUST 10, 1858.

XLVI. Les Moldaves et les Valaques seront tous égaux devant la loi, devant l'impôt, et également admissibles aux emplois publics dans l'une et l'autre Principauté.

Leur liberté individuelle sera garantie. Personne ne pourra être retenu, arrêté, ni poursuivi que conformément à la loi.

Personne ne pourra être exproprié que légalement, pour cause d'intérêt public, et moyennant indemnité.

Les Moldaves et les Valaques de tous les rites Chrétiens jouiront également des droits politiques. La jouissance de ces droits pourra être étendue aux autres cultes par les dispositions législatives.²¹

Tous les privilèges, exemptions, ou monopoles, dont jouissent encore certaines classes, seront abolis; et il sera procédé sans retard à la révision de la loi qui règle les rapports des propriétaires du sol avec les cultivateurs, en vue d'améliorer l'état des paysans.

("Brit. and For. State Papers," vol. xlviii. pp. 77-78.)

(f) THE CONGRESS OF BERLIN (1878).

Not only were the promises of the Prince of Moldavia not realised, but, during the next twenty years, the Jews of the Principalities were more cruelly persecuted than ever. The perse-

²¹ This *alinéa* did not appear in the scheme drawn up by the Bucharest Commission, but was inserted by the Conference.

cution extended beyond the frontiers to Servia, and it soon became the leading preoccupation of the Jews throughout the world. Owing to their protests, the Powers frequently intervened.³² Rumania then took the impudent course of resenting this interference in her internal affairs, on the ground that, by international comity, they were no concern of foreign States. In 1867, this provoked a notable retort from Great Britain. In a despatch sent to Bucharest in that year, the following sentence appears: "The peculiar position of the Jews places them under the protection of the civilised world."³³

When the Congress of Berlin met in 1878, to reconsider the Eastern Question, the situation of the Jews in Eastern Europe, and more particularly in the Balkans, took its place in the front rank of the preoccupations of the Powers. Several long protocols are entirely devoted to it.³⁴ The result was that the Treaty of Berlin dealt comprehensively with the whole question of religious liberty, and stipulated separately for such liberty in all the States of the Levant. The Treaty is thus, as the Jewish Conjoint Committee described it, in their important Memorandum of November 1908, "above all a great charter of Emancipation, especially of civil and religious equality."³⁵ This principle is embodied in no fewer than five of its articles, relating to every political division of the vast region with which it deals, and in each case it is asserted as the fundamental basis of the liberties conferred on the various States.³⁶ In a word, it made it a principle of European policy that no new State or transfer of territory should be recognised unless the fullest religious liberty and civil and political equality were guaranteed to the inhabitants. Thus it marks the triumph of the principle first tentatively laid down for Holland and Belgium in Article II of the Protocol of June 1814. Though applied to Greece in the Protocol of February 1830, it had had to wait nearly fifty years for universal acceptance.

All the States concerned frankly and honestly accepted this principle, and put it into operation, except Rumania. By a repetition

³² Loeb: *Situation*, pp. 139-196. Narcisse Leven: *Cinquante ans d'histoire*, pp. 93-146.

³³ *British and Foreign State Papers*, lxii, p. 705.

³⁶ *Jews and the War*, p. 29.

³⁴ *Infra*, pp. 25-33

³⁵ *Infra*, p. 33.

of the specious promises of 1858, she again obtained permission to emancipate her Jews gradually, it being understood that the process would be hastened, and that full emancipation would be accomplished within a reasonable time. Unfortunately the phrasing of the articles embodying the principle left a technical loophole of which Rumania very dexterously availed herself, inasmuch as it did not make provision against the application, under Rumanian law, of the *jus sanguinis* to the Jews who *quâ* Jews were held to be aliens. The point was not ignored by the Congress, but no attempt was made to satisfy it as the intentions of the Congress were clear enough and reliance was placed on the good faith of Rumania.²⁷ The result is that for forty years Rumania has evaded both the will of the Congress and her own promises; and to-day the Jews of that country, with the exception of a handful who have been emancipated by individual Acts of Parliament, are the only Jews in Europe who are denied equal rights with their fellow-citizens.

DOCUMENTS.

EXTRACTS FROM PROTOCOLS OF THE CONGRESS OF BERLIN.

Protocole No. 5.—Séance du 24 Juin, 1878.

M. Waddington donne lecture de deux Articles Additionnels proposés par les Plénipotentiaires de France, et dont voici le texte :—

“ Art. I. Tous les sujets Bulgares, quelle que soit leur religion, jouiront d’une complète égalité de droits. Ils pourront concourir à tous les emplois publics, fonctions et honneurs, et la différence de croyance ne pourra leur être opposée comme un motif d’exclusion.

“ L’exercice et la pratique extérieure de tous les cultes seront entièrement libres, et aucune entrave ne pourra être apportée soit à l’organisation hiérarchique des différentes communions, soit à leurs rapports avec leurs chefs spirituels.

“ II. Une pleine et entière liberté est assurée aux religieux et évêques Catholiques étrangers pour l’exercice de leur culte en Bulgarie et dans la Roumélie Orientale. Ils seront maintenus dans l’exercice de leurs droits et privilèges, et leurs propriétés seront respectées.”

Le Président dit que ces deux propositions seront imprimées, distribuées, et placées à un ordre du jour ultérieur.

²⁷ *Infra*, p. 32. Extract from Protocol No. 17.

Après un échange d'observations entre le Comte Schouvaloff et M. Waddington sur la portée des deux propositions de M. le Premier Plénipotentiaire de France, il demeure entendu que la première s'applique à la Bulgarie, et l'autre à la Bulgarie et à la Roumélie Orientale ensemble.

("Brit. and For. State Papers," vol. lxi., p. 917.)

Protocole No. 6—Séance du 25 Juin, 1878.

L'ordre du jour appelle ensuite les deux propositions Françaises insérées dans le Protocole 5, et relatives à la liberté des cultes.

Sur la première, M. Desprez demande la substitution des mots "habitants de la Principauté de Bulgarie" à ceux de "sujets Bulgares"; cette modification est admise, et la proposition acceptée à l'unanimité. Sur la seconde proposition particulièrement relative aux évêques et religieux Catholiques, le Comte Schouvaloff propose de substituer à ces mots, "les ecclésiastiques et religieux étrangers."

Lord Salisbury désirerait que la même législation fût, sous ce rapport, établie pour la Roumélie, et pour les autres provinces de la Turquie.

Carathéodory Pacha déclare qu'en effet une proposition concernant le libre exercice du culte dans la province de Roumélie Orientale paraît tout-à-fait superflue, cette province devant être soumise à l'autorité du Sultan, et, par conséquent, aux principes et aux lois communs à toutes les parties de l'Empire, et qui établissent la tolérance pour tous les cultes également.

M. Waddington, prenant acte de ces paroles, annonce l'intention d'introduire quelques changements dans la rédaction de sa proposition, et demande l'ajournement de la discussion à demain.

(*Ibid.*, p. 935.)

Protocole No. 7—Séance du 26 Juin, 1878.

Le Président soumet au Congrès l'Article Additionnel présenté par les Plénipotentiaires Français dans une séance précédente, et relatif aux religieux Catholiques étrangers en Bulgarie et en Roumélie Orientale.

Lord Salisbury regrette que les Plénipotentiaires de France ne donnent pas suite à leur proposition en étendant sa portée à toute la Turquie d'Europe. Son Excellence y aurait vu un important progrès réalisé.

M. Waddington répond que le progrès dont parle Lord Salisbury a été obtenu par l'acceptation dans la séance d'hier, de la première proposition Française qui consacre l'entière liberté des cultes.

Lord Salisbury ayant fait remarquer que cette proposition ne concernait que la Bulgarie, le Président dit que, pour sa part, il s'associe au désir que la liberté des cultes soit réclamée pour toute la Turquie, tant en Europe qu'en

Asie, mais il se demande si l'on obtiendrait sur ce point l'assentiment des Plénipotentiaires Ottomans.

Carathéodory Pacha déclare, qu'en répondant hier à M. Waddington, il s'en est simplement rapporté à la législation générale de l'Empire Ottoman ainsi qu'aux Traités et Conventions. Son Excellence ajoute que la tolérance dont jouissent tous les cultes en Turquie ne fait aucun doute, et qu'en l'absence d'une proposition plus étendue sur laquelle il aurait alors à s'expliquer, il se croit en droit de considérer comme superflue une mention spéciale pour la Roumélie Orientale.

Le Président constate que l'unanimité du Congrès s'associe au désir de la France de prendre acte des déclarations données par la Turquie en faveur de la liberté religieuse. Tel était le but des Plénipotentiaires Français, et il a été atteint. Lord Salisbury désirerait aller au delà, et faire étendre la proposition primitive non seulement à la Bulgarie et la Roumélie, mais à tout l'Empire Ottoman. En ce qui concerne l'Allemagne, le Prince de Bismarck, qui a donné son adhésion à la proposition Française, aurait aussi volontiers admis celle de Lord Salisbury, mais la discussion d'une question aussi complexe détournerait le Congrès de l'objet de sa séance présente. Son Altesse Sérénissime demande toutefois à Lord Salisbury s'il entend présenter à cet égard une motion spéciale.

M. le Second Plénipotentiaire de la Grande Bretagne se réserve de revenir sur ce point à propos de l'Article XXII du Traité de San Stéfano.

Le Comte Schouvaloff ajoute que le désir de Lord Salisbury de voir étendre la liberté religieuse autant que possible en Europe et en Asie lui semble très justifié. Son Altesse désirerait qu'il fut fait mention au Protocole de son adhésion au vœu de M. le Plénipotentiaire d'Angleterre, et fait observer que le Congrès ayant cherché à effacer les frontières ethnographiques, et à les remplacer par de frontières commerciales et stratégiques, les Plénipotentiaires de Russie souhaitent d'autant plus que ces frontières ne deviennent point des barrières religieuses.

Le Président résume la discussion en disant qu'il sera inscrit au Protocole que l'unanimité du Congrès s'est ralliée à la proposition Française, et que la plupart des Plénipotentiaires ont formé des vœux pour l'extension de la liberté des cultes. Ce point sera compris d'ailleurs dans la discussion de l'Article XXII du Traité de San Stéfano.

(*Ibid.*, pp. 942-943.)

Protocole No. 8.—Séance du 28 Juin, 1878.

Lord Salisbury reconnaît l'indépendance de la Serbie, mais pense qu'il serait opportun de stipuler dans la Principauté le grand principe de la liberté religieuse.

M. Waddington admet également l'indépendance de la Serbie, mais sous le bénéfice de la proposition suivante identique à celle que le Congrès a acceptée pour la Bulgarie :—

“ Les habitants de la Principauté de Serbie, quelle que soit leur religion, jouiront d'une complète égalité de droits. Ils pourront concourir à tous les emplois publics, fonctions et honneurs, et exercer toutes les professions, et la différence de croyance ne pourra leur être opposée comme un motif d'exclusion.

“ L'exercice et la pratique extérieure de tous les cultes seront entièrement libres, et aucune entrave ne pourra être apportée soit à l'organisation hiérarchique des différentes communions, soit à leurs rapports avec leurs chefs spirituels.”

Le Prince Gortchacow craint que cette rédaction ne s'applique surtout aux Israélites, et sans se montrer contraire aux principes généraux qui y sont énoncés, son Altesse Sérénissime ne voudrait pas que la question Israélite, qui viendra plus tard, fût préjugée par une déclaration préalable. S'il ne s'agit que de la liberté religieuse, le Prince Gortchacow déclare qu'elle a toujours été appliquée en Russie ; il donne pour sa part à ce principe l'adhésion la plus complète et serait prêt à l'étendre dans le sens le plus large. Mais s'il s'agit de droits civils et politiques, son Altesse Sérénissime demande à ne pas confondre les Israélites de Berlin, Paris, Londres, ou Vienne, auxquels on ne saurait assurément refuser aucun droit politique et civil, avec les Juifs de la Serbie, de la Roumanie, et de quelques provinces Russes, qui sont, à son avis, un véritable fléau pour les populations indigènes.

Le Président ayant fait remarquer qu'il conviendrait peut-être d'attribuer à la restriction des droits civils et politiques ce regrettable état des Israélites, le Prince Gortchacow rappelle qu'en Russie, le Gouvernement, dans certaines provinces, a dû, sous l'impulsion d'une nécessité absolue et justifié par l'expérience, soumettre les Israélites à un régime exceptionnel pour sauvegarder les intérêts des populations.

M. Waddington croit qu'il est important de saisir cette occasion solennelle pour faire affirmer les principes de la liberté religieuse par les Représentants de l'Europe. Son Excellence ajoute que la Serbie, qui demande à entrer dans la famille Européenne sur le même pied que les autres États, doit au préalable reconnaître les principes qui sont la base de l'organisation sociale dans tous les États de l'Europe, et les accepter comme une condition nécessaire de la faveur qu'elle sollicite.

Le Prince Gortchacow persiste à penser que les droits civils et politiques ne sauraient être attribués aux Juifs d'une manière absolue en Serbie.

Le Comte Schouvaloff fait remarquer que ces observations ne constituent pas une opposition de principe à la proposition Française : l'élément Israélite, trop considérable dans certaines provinces Russes, a dû y être

l'objet d'une réglementation spéciale, mais son Excellence espère que, dans l'avenir, on pourra prévenir les inconvénients incontestables signalés par le Prince Gortchacow sans toucher à la liberté religieuse dont la Russie désire le développement.

Le Prince de Bismarck adhère à la proposition Française, en déclarant que l'assentiment de l'Allemagne est toujours acquis à toute motion favorable à la liberté religieuse.

Le Comte de Launay dit qu'au nom de l'Italie il s'empresse d'adhérer au principe de la liberté religieuse, qui forme une des bases essentielles des institutions de son pays, et qu'il s'associe aux déclarations faites à ce sujet par l'Allemagne, la France, et la Grande Bretagne.

Le Comte Andrassy s'exprime dans le même sens, et les Plénipotentiaires Ottomans n'élèvent aucune objection.

Le Prince de Bismarck, après avoir constaté les résultats du vote, déclare que le Congrès admet l'indépendance de la Serbie, mais sous la condition que la liberté religieuse sera reconnue dans la Principauté. Son Altesse Sérénissime ajoute que la Commission de Rédaction, en formulant cette décision, devra constater la connexité établie par le Congrès entre la proclamation de l'indépendance Serbe et la reconnaissance de la liberté religieuse.

(*Ibid.* pp. 959-961.)

Protocole No. 10—Séance du 1^{er} Juillet, 1878.

M. Waddington déclare que, fidèles aux principes qui les ont inspirés jusqu'ici, les Plénipotentiaires de France demandent que le Congrès pose à l'indépendance Roumaine les mêmes conditions qu'à l'indépendance Serbe. Son Excellence ne se dissimule pas les difficultés locales qui existent en Roumanie, mais, après avoir mûrement examiné les arguments qu'on peut faire valoir dans un sens et dans l'autre, les Plénipotentiaires de France ont jugé préférable de ne point se départir de la grande règle de l'égalité des droits et de la liberté des cultes. Il est difficile, d'ailleurs, que le Gouvernement Roumain repousse, sur son territoire, le principe admis en Turquie pour ses propres sujets. Son Excellence pense qu'il n'y a pas à hésiter que la Roumanie, demandant à entrer dans la grande famille Européenne, doit accepter les charges et même les ennuis de la situation dont elle réclame le bénéfice, et que l'on ne trouvera, de longtemps, une occasion aussi solennelle et décisive d'affirmer de nouveau les principes qui font l'honneur et la sécurité des nations civilisées. Quant aux difficultés locales, M. le Premier Plénipotentiaire de France estime qu'elles seront plus aisément surmontées lorsque ces principes auront été reconnus en Roumanie et que la race Juive saura qu'elle n'a rien à attendre que de ses propres efforts et de la solidarité de ses intérêts avec ceux des populations indigènes. M. Waddington termine en insistant pour que

les mêmes conditions d'ordre politique et religieux indiquées pour la Serbie soient également imposées à l'État Roumain.

Le Prince de Bismarck faisant allusion aux principes du droit public en vigueur d'après la Constitution de l'Empire Allemand, et à l'intérêt que l'opinion publique attache à ce que les mêmes principes suivis dans la politique intérieure soient appliqués à la politique étrangère, déclare s'associer, au nom de l'Allemagne, à la proposition Française.

Le Comte Andrassy adhère à la proposition Française.

Lord Beaconsfield dit qu'il donne une complète adhésion, au nom du Gouvernement Anglais, à la proposition Française. Son Excellence ne saurait supposer un instant que le Congrès reconnaitrait l'indépendance de la Roumanie en dehors de cette condition.

Les Plénipotentiaires Italiens font la même déclaration.

Le Prince Gortchacow, se référant aux expressions par lesquelles a été motivée la proposition Française et qui donnent la plus grande extension à la liberté religieuse, se rallie entièrement à cette proposition.

Le Comte Schouvaloff ajoute que l'adhésion de la Russie à l'indépendance est cependant subordonnée à l'acceptation par la Roumanie de la retrocession réclamée par le Gouvernement Russe.

Les Plénipotentiaires Ottomans n'élèvent aucune objection contre les principes présentés par les Plénipotentiaires Français, et le Président constate que le Congrès est unanime à n'accorder l'indépendance à la Roumanie qu'aux mêmes conditions posées à la Serbie.

Le Baron de Haymerle lit une motion relative à la liberté des cultes dans le Monténégro :—

“Tous les habitants du Monténégro jouiront d'une pleine et entière liberté de l'exercice et de la pratique extérieure de leurs cultes, et aucune entrave ne pourra être apportée soit à l'organisation hiérarchique des différentes communions, soit à leurs rapports avec leurs chefs spirituels.”

Le Congrès décide le renvoi à la Commission de Rédaction.

(*Ibid.*, pp. 982-983, 989, 990.)

Protocole No. 12—Séance du 4 Juillet, 1878.

Le Président fait mention des pétitions de la liste No. 9, et notamment de la communication adressée au Congrès par M. Ristitch, faisant savoir au Congrès que le Prince Milan l'a autorisé à déclarer que le Gouvernement Serbe saisira la première occasion, après la conclusion de la paix, pour abolir par la voie légale la dernière restriction qui existe encore en Serbie relativement à la position des Israélites. Son Altesse Sérénissime, sans vouloir entrer dans l'examen de la question, fait remarquer que les mots “la voie légale” semblent une réserve qu'il signale à l'attention de la haute assemblée. Le Prince de

Bismarck croit devoir constater qu'en aucun cas cette réserve ne saurait infirmer l'autorité des décisions du Congrès.

Le Congrès passe à l'Article XXII du Traité de San Stéfano relatif aux ecclésiastiques Russes et aux moines de Mont Athos.

Le Marquis de Salisbury rappelle qu'avant la séance il a fait distribuer à ses collègues une proposition tendant à substituer à l'Article XXII les dispositions suivantes :—

“Tous les habitants de l'Empire Ottoman en Europe, quelle que soit leur religion, jouiront d'une complète égalité de droits. Ils pourront concourir à tous les emplois publics, fonctions et honneurs, et seront également admis en témoignage devant les Tribunaux.

“L'exercice et la pratique extérieure de tous les cultes seront entièrement libres, et aucune entrave ne pourra être apportée, soit à l'organisation hiérarchique des différentes communions, soit à leurs rapports avec leurs chefs spirituels.

“Les ecclésiastiques, les pèlerins, et les moines de toutes les nationalités, voyageant ou séjournant dans la Turquie d'Europe et d'Asie, jouiront d'une entière égalité de droits, avantages et privilèges.

“Le droit de protection officielle est reconnu aux Représentants Diplomatiques et aux Agents Consulaires des Puissances en Turquie, tant à l'égard des personnes sus-indiquées que de leurs possessions, établissements religieux, de bienfaisance, et autres dans les Lieux Saints et ailleurs.

“Les moines du Mont Athos seront maintenus dans leurs possessions et avantages antérieurs, et jouiront, sans aucune exception, d'une entière égalité de droits et prérogatives.”

Lord Salisbury explique que les deux premiers alinéas de cette proposition représentent l'application à l'Empire Ottoman des principes adoptés par le Congrès, sur la demande de la France, en ce qui concerne la Serbie et la Roumanie ; les trois derniers alinéas ont pour but d'étendre aux ecclésiastiques de toutes les nationalités le bénéfice des stipulations de l'Article XXII spéciales aux ecclésiastiques Russes.

Le Président fait également remarquer que la portée de la proposition Anglaise est la substitution de la Chrétienté tout entière à une seule nationalité, et commence la lecture du document par alinéas.

Sur le premier alinéa, Carathéodory Pacha dit que, sans doute, les principes de la proposition sont acceptés par la Turquie, mais son Excellence ne voudrait pas qu'ils fussent considérés comme une innovation, et donne lecture, à ce sujet, de la communication suivante qu'il vient de recevoir de son Gouvernement :—

“En présence des déclarations faites au sein du Congrès dans différentes circonstances en faveur de la tolérance religieuse, vous êtes autorisé à déclarer, de votre côté, que le sentiment de la Sublime Porte à cet égard

s'accorde parfaitement avec le but poursuivi par l'Europe. Ses plus constantes traditions, sa politique séculaire, l'instinct de ses populations, tout l'y pousse. Dans tout l'Empire les religions les plus différentes sont professées par des millions de sujets du Sultan, et personne n'a été gêné dans sa croyance et dans l'exercice de son culte. Le Gouvernement Impérial est décidé à maintenir dans toute sa force ce principe, et a lui donner toute l'extension qu'il comporte."

Le Premier Plénipotentiaire de Turquie désirerait, en conséquence, que, si le Congrès se rallie à la proposition Anglaise, il fût, du moins, constaté dans le texte que les principes dont il s'agit sont conformes à ceux qui dirigent son Gouvernement. Son Excellence ajoute que, contrairement à ce qui se passait en Serbie et en Roumanie, il n'existe dans la législation de l'Empire aucune inégalité ou incapacité fondées sur des motifs religieux, et demande l'addition de quelques mots indiquant que cette règle a toujours été appliquée dans l'Empire Ottoman non seulement en Europe, mais en Asie. Le Congrès pourrait, par exemple, ajouter "conformément aux déclarations de la Porte et aux dispositions antérieures, qu'elle affirme vouloir maintenir."

Lord Salisbury n'a pas d'objections contre la demande de Carathéodory Pacha, tout en faisant observer que ces dispositions se rencontrent, en effet, dans les déclarations de la Porte, mais n'ont pas toujours été observées dans la pratique. Au surplus, son Excellence ne s'oppose point à ce que le Comité de Rédaction soit invité à insérer l'addition réclamée par les Plénipotentiaires Ottomans.

(*Ibid.*, pp. 1002-3, 1009-10.)

Protocole No. 17.—Séance du 10 Juillet 1878.

Le Président invite le Rapporteur de la Commission de Rédaction à lire le travail préparatoire du Traité.

M. Desprez fait connaître à la haute assemblée que le texte du préambule n'est pas encore arrêté, mais lui sera soumis dans la prochaine séance. Article V, qui a pour objet l'égalité des droits et la liberté des cultes, a donné lieu à des difficultés de rédaction ; cet Article, en effet, est commun à la Bulgarie, au Monténégro, à la Serbie, à la Roumanie, et la Commission devait trouver une même formule pour diverses situations ; il était particulièrement malaisé d'y comprendre les Israélites de Roumanie, dont la situation est indéterminée au point de vue de la nationalité. Le Comte de Launay, dans le but de prévenir tout malentendu, a proposé, au cours de la discussion, l'insertion de la phrase suivante : "Les Israélites de Roumanie, pour autant qu'ils n'appartiennent pas à une nationalité étrangère, acquièrent, de plein droit, la nationalité Roumaine."

Le Prince de Bismarck signale les inconvénients qu'il y aurait à modifier les résolutions adoptées par le Congrès et qui ont formé la base des travaux

de la Commission de Rédaction. Il est nécessaire que le Congrès s'oppose à toute tentative de revenir sur le fond.

M. Desprez ajoute que la Commission a maintenu sa rédaction primitive, qui lui paraît de nature à concilier tous les intérêts en cause, et que M. de Launay s'est borné à demander l'insertion de sa motion au Protocole.

Le Prince Gortschacow rappelle les observations qu'il a présenté, dans une précédente séance, à propos des droits politiques et civils des Israélites en Roumanie. Son Altesse Sérénissime ne veut pas renouveler ses objections, mais tient à déclarer de nouveau qu'il ne partage pas, sur ce point, l'opinion énoncée dans le Traité.

(*Ibid.*, pp. 1058-1059.)

EXTRACTS FROM THE TREATY OF BERLIN, SIGNED JULY 13, 1878.

XLIV. En Roumanie la distinction des croyances religieuses et des confessions ne pourra être opposée à personne comme un motif d'exclusion ou d'incapacité en ce qui concerne la jouissance des droits civils et politiques, l'admission aux emplois publics, fonctions, et honneurs, ou l'exercice des différentes professions et industries dans quelque localité que ce soit.

La liberté et la pratique extérieure de tous les cultes seront assurées à tous les ressortissants de l'État Roumain aussi bien qu'aux étrangers, et aucune entrave ne sera apportée, soit à l'organisation hiérarchique des différentes communions, soit à leurs rapports avec leurs chefs spirituels.

Les nationaux de toutes les Puissances, commerçants ou autres, seront traités en Roumanie, sans distinction de religion, sur le pied d'une parfaite égalité.

[Articles V, XXVII, and XXXV, relating respectively to Bulgaria, Montenegro, and Servia, are in the same form with the exception of the last *alinéa*, which only appears in the above quoted article.]

LXII. La Sublime Porte ayant exprimé la volonté de maintenir le principe de la liberté religieuse en y donnant l'extension la plus large, les Parties Contractantes prennent acte de cette déclaration spontanée.

Dans aucune partie de l'Empire Ottoman la différence de religion ne pourra être opposée à personne comme un motif d'exclusion ou d'incapacité en ce qui concerne l'usage des droits civils et politiques, l'admission aux emplois publics, fonctions et honneurs, ou l'exercice des différentes professions et industries.

Tous seront admis sans distinction de religion à témoigner devant les tribunaux.

La liberté et la pratique extérieure de tous les cultes sont assurés à

tous, et aucune entrave ne pourra être apportée, soit à l'organisation hiérarchique des différentes communions, soit à leurs rapports avec leurs chefs spirituels.

Les ecclésiastiques, les pèlerins, et les moines de toutes les nationalités voyageant dans la Turquie d'Europe ou la Turquie d'Asie jouiront des mêmes droits, avantages et privilèges.

(*Ibid.*, pp. 764, 766-767.)

REVISION OF THE RUMANIAN CONSTITUTION (1879).

No. 115. *Mr. White to the Marquis of Salisbury.* (Rec. November 4.)

BUCHAREST, October 25, 1879.

MY LORD,—I have the honour to forward to your Lordship an authorized French translation of the Constitutional amendment concerning naturalization and religious equality as promulgated by a Decree this morning.

I have, &c.,

W. A. WHITE.

THE MARQUIS OF SALISBURY.

(TRANSLATION.)

Article Unique.—À la place de l'Article 7 de la Constitution soumis à la revision, on mettra le suivant :—

Article 7. La distinction de croyances religieuses et de confessions ne constituera point en Roumanie un obstacle à l'acquisition des droits civils et politiques et à leur exercice.

§ 1. L'étranger pourra, sans distinction de religion, et qu'il soit soumis ou non à une protection étrangère, obtenir la naturalisation sous les conditions suivantes :

(a) Il adressera, au Gouvernement sa pétition de naturalisation, par laquelle il fera connaître le capital qu'il possède, la profession ou l'industrie qu'il exerce, et la volonté d'établir en Roumanie son domicile.

(b) À la suite de cette demande il habitera le pays pendant dix années, et il prouvera, par ses actions, qu'il est utile au pays.

§ 2. Pourront être dispensés du stage :

(a) Ceux qui auront introduit dans le pays des industries, des inventions utiles, ou qui posséderont des talents distingués, ceux qui auront fondé de grands établissements de commerce ou d'industrie.

(b) Ceux qui, nés et élevés dans le pays, de parents y établis, n'auront jamais joui, ni les uns ni les autres, d'une protection étrangère.

(c) Ceux qui auront servi sous les drapeaux pendant la Guerre de l'Indépendance, lesquels pourront être naturalisés d'une manière collective, sur la proposition du Gouvernement, par une seule Loi et sans autre formalité.

3. La naturalisation ne peut être accordée que par la Loi, et individuellement.

4. Une Loi spéciale déterminera le mode d'après lequel les étrangers pourront établir leur domicile en Roumanie.

5. Les Roumains ou ceux qui seront naturalisés Roumains pourront acquérir des immeubles ruraux en Roumanie. Les droits déjà acquis seront respectés. Les Conventions Internationales actuellement existantes restent en vigueur, avec toutes leurs clauses et jusqu'à l'expiration de leur durée.

(*Ibid.*, lxxi. 1176-77.)

THE COMPACT WITH RUMANIA (1880).

*English Text of Identical Note presented to the Roumanian Government,
February 20, 1880.*

The Undersigned, British Representative at Bucharest, has the honour, by order of his Government, to convey to M. Boeresco, the Minister for Foreign Affairs of Roumania, the following communication :—

Her Britannic Majesty's Government have been informed, through the Agent of His Royal Highness the Prince of Roumania at Paris, of the promulgation, on the 25th October, 1879, of a Law, voted by the "Chambres de Revision" of the Principality, for the purpose of bringing the text of the Roumanian Constitution into conformity with the stipulations inserted in Article XLIV of the Treaty of Berlin.

Her Majesty's Government cannot consider the new Constitutional provisions which have been brought to their cognizance—and particularly those by which persons belonging to a non-Christian creed domiciled in Roumania, and not belonging to any foreign nationality, are required to submit to the formalities of individual naturalization—as being a complete fulfilment of the views of the Powers signatories of the Treaty of Berlin.

Trusting, however, to the determination of the Prince's Government to approximate more and more, in the execution of these provisions, to the liberal intentions entertained by the Powers, and taking note of the positive assurances to that effect which have been conveyed to them, the Government of Her Britannic Majesty, being desirous of giving to the Roumanian nation a proof of their friendly sentiments, have decided to recognize the Principality of Roumania as an independent State. Her Majesty's Government conse-

quently declare themselves ready to enter into regular diplomatic relations with the Prince's Government.

In bringing the decision come to by his Government to the knowledge of the Minister for Foreign Affairs, the Undersigned, &c.

W. A. WHITE.

BUCHAREST, February 20, 1880.

(*Ibid.*, p. 1187.)

(g) RUMANIA AND THE POWERS (1902).

It must be confessed—and, indeed, it has been avowed by prominent Rumanians themselves²⁸—that Rumania's evasion of the Treaty of Berlin has been a monument of resourceful duplicity and bad faith. Accomplished by pretending to regard the native Jews as foreigners, it actually placed them in a far worse position than they had held in 1858, when at any rate their national character as Moldavians or Wallachians was not contested. But, not only have they been refused emancipation and stamped as foreigners, but, in their character of foreigners, without a State to protect them, they have been made the victims of special and cruel disabilities, which in practice do not and cannot affect other foreigners.

One peculiarly barbarous act of persecution of this kind which was attempted in 1902 nearly brought about a serious intervention by the Great Powers to compel Rumania to observe her Treaty obligations. An Act was passed by the Rumanian Parliament forbidding foreigners to exercise any handicraft in Rumania unless Rumanians were assured similar privileges in the parent States of such foreigners. The result of this Act would have been to deprive all the Jewish artizans in Rumania of the means of earning their livelihood, as, being foreigners without a parent State of their own, they could not prove the reciprocity required by the law. Prompt steps were taken to bring this project to the notice of the Great Powers, chiefly by the late Lord Rothschild in London and Mr. Jacob Schiff in Washington. Lord Rothschild was the first to move. In June 1901 he

²⁸ "Le Traité de Berlin," writes M. Suliôtis in the *Journal du droit international privé* (xiv. 563), "a cru faire merveille en faveur des étrangers, mais la Roumanie a su habilement éluder les inconvénients qui pouvaient résulter de l'application de l'article VII. dans le sens du Traité de Berlin, qui n'a eu d'autres résultats que de rendre plus difficile la situation des étrangers."

forwarded to His Majesty's Government an elaborate Memorandum setting forth the intolerable situation of the Rumanian Jews and especially emphasising its international dangers as a stimulus of undesirable immigration in other countries.³⁹ At the same time he brought all his great influence to bear privately on individual members of the Government. From Lord Lansdowne he received the warmest sympathy, and the Foreign Office at once set inquiries on foot with a view to ascertaining whether combined action by the Powers signatory of the Berlin Treaty would be practicable. The responses, however, were not encouraging.⁴⁰ Meanwhile the action of the London Jews had been communicated to Mr. Oscar Straus in New York, and he persuaded Mr. Schiff to bring the question to the knowledge of President Roosevelt. The President, deeply moved by Mr. Schiff's story, acted with characteristic energy. In July 1902 the Secretary of State, Mr. John Hay, under the guise of a despatch giving instructions to the United States Minister at Athens in regard to certain negotiations then pending for a Naturalisation Treaty with Rumania, formulated a powerful indictment of the persecutions. Three weeks later the American Ambassadors in London, Paris, Berlin, Vienna, St. Petersburg, Rome, and Constantinople were instructed to communicate this despatch to the Governments to which they were accredited, and to ascertain from them whether it might not be possible to take some steps to secure from Rumania the fulfilment of her obligations under Article XLIV of the Treaty of Berlin.⁴¹ Thus supported, Lord Lansdowne no longer hesitated. In September he despatched a Circular to the Great Powers definitely proposing combined representations at Bucharest.⁴²

³⁹ Dated June 13, 1901. It is not printed. Its argument is largely reproduced in the Memorandum of the Conjoint Committee of November 1908, for full text of which see *Jews and the War*, pp. 14 *et seq.*

⁴⁰ Private information and documents.

⁴¹ For a detailed and documented account of the American intervention, but without the full texts of the Notes of Secretary Hay (*infra*, pp. 38-45), see Kohler and Wolf: *Jewish Disabilities in the Balkan States* (the American Jewish Committee, 1916), pp. 80-83, 108-137.

⁴² Semi-official communiqué to the newspapers through Reuter's Agency, September 23, 1902. The fact was also privately communicated by Lord Lansdowne to Lord Rothschild at the time.

As soon as this *démarche* got wind Rumania hastened to annul the offending law, and otherwise to restrain her anti-Semitic zeal. Nothing more was heard of the proposed collective intervention, but it is now known that Lord Lansdowne's proposal never took final shape because the Russian and German Governments refused to associate themselves with it.

DOCUMENTS.

DISPATCH FROM MR. JOHN HAY (U.S. SECRETARY OF STATE) TO THE U.S. MINISTER AT ATHENS.

DEPARTMENT OF STATE, WASHINGTON,
July 17, 1902.

Charles S. Wilson, Esquire, etc., etc., etc., Athens.

SIR,—Your legation's despatch No. 19, of the 13th of February last, reported having submitted to the Roumanian Government, through its diplomatic representative in Greece, as the outcome of conference had by Mr. Francis with him on the subject, a tentative draft of the naturalization convention, on the lines of the draft previously submitted to the Servian Government, and Mr. Francis added that His Excellency the Roumanian Minister had informed him of his hearty approval of the project, which he had forwarded to his Government with his unqualified endorsement. Minister Francis was instructed on March 4 that his action was approved. No report of progress has since been received from your legation, but it is presumed that the matter is receiving the consideration due to its importance.

For its part, the Government of the United States regards the conclusion of conventions of this character as of the highest value, because not only establishing and recognizing the right of the citizens of the foreign State to expatriate themselves voluntarily and acquire the citizenship of this country, but also because establishing beyond the pale of doubt the absolute equality of such naturalized persons with native citizens of the United States in all that concerns their relation to or intercourse with the country of their former allegiance.

The right of citizens of the United States to resort to and transact affairs of business or commerce in another country, without molestation or disfavor of any kind, is set forth in the general treaties of amity and commerce which the United States have concluded with foreign nations, thus declaring what this Government holds to be a necessary feature of

the mutual intercourse of civilized nations and confirming the principles of equality, equity and comity which underlie their relations to one another. This right is not created by treaties ; it is recognized by them as a necessity of national existence, and we apply the precept to other countries, whether it be conventionally declared or not, as fully as we expect its extension to us.

In some instances, other governments, taking a less broad view, regard the rights of intercourse of alien citizens as not extending to their former subjects who may have acquired another nationality. So far as this position is founded on national sovereignty and asserts a claim to the allegiance and service of the subject not to be extinguished save by the consent of the sovereign, it finds precedent and warrant which it is immaterial to the purpose of this instruction to discuss. Where such a claim exists, it becomes the province of a naturalization convention to adjust it on a ground of common advantage, substituting the general sanction of treaty for the individual permission of expatriation and recognizing the subject who may have changed allegiance as being on the same plane with the natural or native citizens of the other contracting State.

Some States, few in number, be it said, make distinction between different classes of citizens of the foreign State, denying to some the rights of innocent intercourse and commerce which by comity and natural right are accorded to the stranger, and doing this without regard to the origin of the persons adversely affected. One country in particular, although maintaining with the United States a treaty which unqualifiedly guarantees to citizens of this country the rights of visit, sojourn and commerce of the Empire, yet assumes to prohibit those rights to Hebrew citizens of the United States, whether native or naturalized.⁴³ This Government can lose no opportunity to controvert such a distinction, wherever it may appear. It cannot admit such discrimination among its own citizens, and can never assent that a foreign State, of its own volition, can apply a religious test to debar any American citizen from the favor due to all.

There is no treaty of amity and commerce between the United States and Roumania, but this Government is pleased to believe that Roumania follows the precepts of comity in this regard as completely and unreservedly as we ourselves do, and that the American in Roumania is as welcome and as free in matters of sojourn and commerce and legal resorts as the Roumanian is in the United States. We hear no suggestion that any differential treatment of our citizens is there imposed. No religious test is known to bar any American from resorting to Roumania for business or pleasure. No attempt has been made to set up any such test in the United States whereby

⁴³ This is a reference to Russia. *Infra*, pp. 69-70.

any American citizen might be denied recourse to the representatives of Roumania in order to authenticate documents necessary to the establishment of his legal rights or the furtherance of his personal interests in Roumania. And in welcoming negotiations for a convention of naturalization Roumania gives proof of her desire to confirm all American citizens in their inherently just rights.

Another consideration, of cognate character, presents itself. In the absence of a naturalization convention, some few States hold self-expatriation without the previous consent of the sovereign to be punishable, or to entail consequences indistinguishable from banishment. Turkey, for instance, only tacitly assents to the expatriation of Ottoman subjects, so long as they remain outside Turkish jurisdiction. Should they return thereto their acquired alienship is ignored. Should they seek to cure the matter by asking permission to be naturalized abroad, consent is coupled with the condition of non-return to Turkey. It is the object of a naturalization convention to remedy this feature by placing the naturalized alien on a parity with the natural-born citizen and according him due recognition as such. This consideration gives us added satisfaction that negotiations on the subject have been auspiciously inaugurated with Roumania. If I have mentioned this aspect of the matter, it is in order that the two Governments may be in accord as to the bases of their agreement in this regard ; for it is indispensable that the essential purpose of the proposed convention should not be impaired or perverted by any coupled condition of banishment imposed independently by the act of either contracting party.

The United States welcomes now, as it has welcomed from the foundation of its government, the voluntary immigration of all aliens coming hither under conditions fitting them to become merged in the body-politic of this land. Our laws provide the means for them to become incorporated indistinguishably in the mass of citizens, and prescribe their absolute equality with the native born, guaranteeing to them equal civil rights at home and equal protection abroad. The conditions are few, looking to their coming as free agents, so circumstanced physically and morally as to supply the healthful and intelligent material of free citizenship. The pauper, the criminal, the contagiously or incurably diseased, are excluded from the benefits of immigration only when they are likely to become a source of danger or a burden upon the community. The voluntary character of their coming is essential,—hence we shut out all immigration assisted or constrained by foreign agencies. The purpose of our generous treatment of the alien immigrant is to benefit us and him alike,—not to afford to another State a field upon which to cast its own objectionable elements. A convention of naturalization may not be construed as an instrument to facilitate any such process. The alien, coming hither voluntarily and prepared to

take upon himself the preparatory, and in due course the definite obligations of citizenship, retains thereafter, in domestic and international relations, the initial character of free agency, in the full enjoyment of which it is incumbent upon his adoptive State to protect him.

The foregoing considerations, whilst pertinent to the examination of the purpose and scope of a naturalization treaty, have a larger aim. It behoves the State to scrutinize most jealously the character of the immigration from a foreign land, and, if it be obnoxious to objection, to examine the causes which render it so. Should those causes originate in the act of another sovereign State, to the detriment of its neighbors, it is the prerogative of an injured State to point out the evil and to make remonstrance; for with nations, as with individuals, the social law holds good that the right of each is bounded by the right of the neighbor.

The condition of a large class of the inhabitants of Roumania has for many years been a source of grave concern to the United States. I refer to the Roumanian Jews, numbering some 400,000. Long ago, while the Danubian principalities labored under oppressive conditions which only war and a general action of the European Powers sufficed to end, the persecution of the indigenous Jews under Turkish rule called forth in 1872 the strong remonstrance of the United States. The Treaty of Berlin was hailed as a cure for the wrong, in view of the express provisions of its 44th article, prescribing that "in Roumania, the difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admissions to public employments, functions, and honors, or the exercise of the various professions and industries in any locality whatsoever," and stipulating freedom in the exercise of all forms of worship to Roumanian dependents and foreigners alike, as well as guaranteeing that all foreigners in Roumania shall be treated, without distinction of creed, on a footing of perfect equality.

With the lapse of time these just prescriptions have been rendered nugatory in great part, as regards the native Jews, by the legislation and municipal regulations of Roumania. Starting from the arbitrary and controvertible premises that the native Jews of Roumania domiciled there for centuries are "aliens not subject to foreign protection," the ability of the Jew to earn even the scanty means of existence that suffice for a frugal race has been constricted by degrees, until nearly every opportunity to win a livelihood is denied; and until the helpless poverty of the Jew has constrained an exodus of such proportions as to cause general concern.

The political disabilities of the Jews in Roumania, their exclusion from the public service and the learned professions, the limitations of their civil rights, and the imposition upon them of exceptional taxes, involving as they

do wrongs repugnant to the moral sense of liberal modern peoples, are not so directly in point for my present purpose as the public acts which attack the inherent right of man as a bread winner in the ways of agriculture and trade. The Jews are prohibited from owning land, or even from cultivating it as common laborers. They are debarred from residing in the rural districts. Many branches of petty trade and manual production are closed to them in the over-crowded cities where they are forced to dwell and engage against fearful odds, in the desperate struggle for existence. Even as ordinary artisans or hired laborers they may only find employment in the proportion of one "unprotected alien" to two "Roumanians" under any one employer. In short, by the cumulative effect of successive restrictions, the Jews of Roumania have become reduced to a state of wretched misery. Shut out from nearly every avenue of self-support which is open to the poor of other lands, and ground down by poverty as the natural result of their discriminatory treatment, they are rendered incapable of lifting themselves from the enforced degradation they endure. Even were the fields of education open to them, of civil employment and of commerce, as to "Roumanian citizens," their penury would prevent rising by individual effort. Human beings, so circumstanced, have virtually no alternatives but submissive suffering, or flight to some land less unfavourable to them. Removal under such conditions is not and cannot be the healthy intelligent emigration of a free and self-reliant being. It must be, in most cases, the mere transplantation of an artificially produced diseased growth to a new place.

Granting that, in better and more healthful surroundings, the morbid conditions will eventually change for good, such emigration is necessarily for a time a burden to the community upon which the fugitives may be cast. Self-reliance, and the knowledge and ability that evolve the power of self-support must be developed, and, at the same time, avenues of employment must be opened in quarters where competition is already keen and opportunities scarce. The teachings of history, and the experience of our own nation, show that the Jews possess in a high degree the mental and moral qualifications of conscientious citizenship. No class of emigrants is more welcome to our shores when coming equipped in mind and body for entrance upon the struggle for bread, and inspired with the high purpose to give the best service of heart and brain to the land they adopt of their own free will. But when they come as outcasts, made doubly paupers by physical and moral oppression in their native land, and thrown upon the long-suffering generosity of a more favored community, their migration lacks the essential conditions which make alien immigration either acceptable or beneficial. So well is this appreciated on the Continent, that, even in the countries where anti-Semitism has no foothold, it is difficult for these fleeing Jews to obtain any lodging. America is their only goal.

The United States offers asylum to the oppressed of all lands. But its sympathy with them in no wise impairs its just liberty and right to weigh the acts of the oppressor in the light of their effects upon this country, and to judge accordingly.

Putting together the facts now painfully brought home to this Government during the past few years: that many of the inhabitants of Roumania are being forced, by artificially adverse discriminations, to quit their native country; that the hospitable asylum offered by this country is almost the only refuge left to them; that they come hither unfitted by the conditions of their exile to take part in the new life of this land under circumstances either profitable to themselves or beneficial to the community; and that they are objects of charity from the outset and for a long time,—the right of remonstrance against the acts of the Roumanian Government is clearly established in favor of this Government. Whether consciously and of purpose, or not, these helpless people, burdened and spurned by their native land, are forced by the sovereign power of Roumania upon the charity of the United States. This Government cannot be a tacit party to such an international wrong. It is constrained to protest against the treatment to which the Jews of Roumania are subjected, not alone because it has unimpeachable ground to remonstrate against the resultant injury to itself, but in the name of humanity. The United States may not authoritatively appeal to the stipulations of the Treaty of Berlin, to which it was not and cannot become a signatory, but it does earnestly appeal to the principles consigned therein, because they are the principles of international law and eternal justice, advocating the broad toleration which that solemn compact enjoins, and standing ready to lend its moral support to the fulfilment thereof by its co-signatories, for the act of Roumania itself has effectively joined the United States to them as an interested party in this regard.

Occupying this ground and maintaining these views, it behoves us to see that in concluding a naturalization convention no implication may exist of obligation on the part of the United States to receive and convert these unfortunates into citizens, and to eliminate any possible inference of some condition or effect tantamount to banishment from Roumania with inhibition of return or imposition of such legal disability upon them by reason of their creed, as may impair their interests in that country or operate to deny them judicial remedies there which all American citizens may justly claim in accordance with the law and comity of nations.

I am, Sir,

Your obedient servant,

JOHN HAY.

AMERICAN CIRCULAR NOTE TO THE GREAT POWERS.

DEPARTMENT OF STATE, WASHINGTON,

August 11, 1902.

SIR,—In the course of an instruction recently sent to the Minister accredited to the Government of Roumania in regard to the bases of negotiation begun with that Government looking to a convention of naturalization between the United States and Roumania, certain considerations were set forth for the Minister's guidance concerning the character of the emigration from that country, the causes which constrain it, and the consequences so far as they adversely affect the United States.

It has seemed to the President appropriate that these considerations, relating as they do to the obligations entered into by the signatories of the Treaty of Berlin of July 13, 1878, should be brought to the attention of the Governments concerned and commended to their consideration in the hope that, if they are so fortunate as to meet the approval of the several Powers, such measures as to them may seem wise may be taken to persuade the Government of Roumania to reconsider the subject of the grievances in question.

(This note continues in the language of the foregoing despatch from the words: "The United States welcomes now, etc." down to words: "as an interested party in this regard.")

You will take an early occasion to read this instruction to the Minister for Foreign Affairs and, should he request it, leave with him a copy.

JOHN HAY.

Reply of Great Britain.

(Mr. Bertie to Mr. Choate.)

FOREIGN OFFICE,

September 2, 1902.

YOUR EXCELLENCY,—I have the honour to acknowledge the receipt of your note of the 23rd ultimo, inclosing a copy of a dispatch from Mr. Secretary Hay on the subject of the conditions of the Jews in Roumania.

His Majesty's Government joins with the United States Government in deploring the depressed condition of the Roumanian Jews and in regarding with apprehension the results of their enforced emigration.

His Majesty's Government will place themselves in communication with

the other Powers signatory of the Treaty of Berlin, with a view to a joint representation to the Roumanian Government on the subject.

FRANCIS BERTIE.

(*In the absence of the Marquis of Lansdowne.*)

("Foreign Relations of the United States (1902)," pp. 910 *et seq.*, 42 *et seq.*, and 550).

(h) THE CONFERENCES OF LONDON, ST. PETERSBURG AND BUCHAREST (1912-13).

In connection with the Balkan complications of the last ten years, which form the overture to the present war, the Jewish organisations in Western Europe and America—chiefly the London Jewish Conjoint Committee—lost no opportunity of keeping the grievances of the Rumanian Jews before the Great Powers and of maintaining the liberties already won in South-Eastern Europe. The work has been of a more arduous and far-reaching character than the public suspect, and, although it has not achieved final success, it has been far from unfruitful. Of this work it is only possible to speak in a very summary way, as much of it is still confidential and all of it is directly related to negotiations still pending and necessarily belonging to the domain of what is invidiously called secret diplomacy.

In 1908, on the occasion of the annexation of Bosnia and the Herzegovina by Austria-Hungary, the Conjoint Committee seized the opportunity of endeavouring to reopen the Rumano-Jewish Question. The annexation was a technical infraction of the Berlin Treaty and required the sanction of the Great Powers, for which probably a Conference would be held. The Conjoint Committee addressed to Sir Edward Grey a request that the scope of the proposed Conference should be extended to other infractions of the Treaty, and accompanied it with a review of the Rumano-Jewish Question, which constitutes one of the most important State Papers produced in the Jewish community.⁴⁴ Unfortunately the projected Conference was abandoned,

⁴⁴ "Memorandum on the Treaty Rights of the Jews of Rumania" (November 1908). Printed for confidential use, 16 pp. fcp. Reprinted in *Jews and the War*, pp. 14-30. Also in the Annual Reports of the Board of Deputies and Anglo-Jewish Association (1909), and in Kohler and Wolf, *op. cit.*

but Sir Edward Grey was so impressed by the statements of the Conjoint Committee that he ordered an investigation to be made, and he afterwards formally avowed, in a letter to the Conjoint Committee, that the charges made in the Memorandum were accurate and that Rumania had not fulfilled her Treaty pledges. This perhaps may not seem to be a great gain, but those who know anything of international politics will be aware that an official statement of this kind has considerable practical importance, and, indeed, it was not lost upon the Cabinet of Bucharest.

The last occasions on which attempts were made to put an end to the Rumanian scandal were in connection with the Conferences of London, St. Petersburg, and Bucharest, which liquidated the various questions arising out of the Balkan wars in 1912-13. Here two questions confronted the Conjoint Committee. While the international questions at issue were confined to the trans-Danubian States, all that was necessary was to secure for the populations of the transferred territories in that region a reaffirmation of the clauses of the Treaties of 1830 and 1878, by which the liberties of racial and religious minorities were guaranteed. When, however, Rumania joined in the war, this question became of much greater importance, and it involved the reopening of the whole question of Rumania's violation of the Treaty of Berlin. In spite of the efforts of the Conjoint Committee, neither the three Conferences of London, nor the Conference of St. Petersburg dealt with these questions. At the Conference of Bucharest the United States Government, at the instance of the American Jewish Committee, made a suggestion that the civil and religious liberties of the populations of the territories transferred under the proposed Treaty should be specially guaranteed. On the proposal of the Rumanian Prime Minister, however, the Conference agreed that such securities were not necessary, but expressed their readiness to give a verbal assurance that the wishes of the United States would be fully realised.⁴⁵ A long correspondence ensued between the Conjoint Committee and the Foreign Office, and eventually Sir Edward Grey agreed to a suggestion of the Committee

⁴⁵ *Infra*, p. 47.

that the Great Powers should be consulted with a view to making their sanction of the new territorial arrangements in the Balkans conditional on the guarantee of full civil and religious liberty to all the inhabitants of the annexed territories.⁴⁶ This important assurance was reaffirmed by the Secretary of State towards the end of July 1914, within a week of the outbreak of the present war.

DOCUMENTS.

EXTRACT FROM THE PROTOCOLS OF THE CONFERENCE OF BUCHAREST.

Protocole No. 6.—Séance du Mardi, 23 Juillet (5 Août), 1913.

[Le Président] fait part à la Conférence de la note suivante que lui a remise S.E. Monsieur Jackson, Ministre des États-Unis d'Amérique à Bucarest.

"Le Gouvernement des États-Unis d'Amérique désire faire savoir qu'il regarderait avec satisfaction si une provision accordant pleine liberté civile et religieuse aux habitants de tout territoire que pourrait être assujéti à la souveraineté de quiconque des cinq Puissances ou qui pourrait être transféré de la juridiction de l'une des Puissances à celle d'une autre, pourrait être introduite dans toute convention conclue à Bucarest."

M. Maioresco estime que les délégués sont unanimes à reconnaître pleinement, en fait et en droit, le principe qui a inspiré la note précitée, le droit public des États constitutionnels représentés à cette Conférence en ayant consacré de longue date l'application. Le Président pense donc que la note des États-Unis d'Amérique ne saurait soulever aucune difficulté : il est peut-être bon de rappeler quelquefois les principes, même lorsqu'ils sont universellement admis. Aussi, croit-il être l'interprète des sentiments de MM. les Plénipotentiaires en déclarant que les habitants de tout territoire nouvellement acquis auront, sans distinction de religion, la même pleine liberté civile et religieuse que tous les autres habitants de l'état.

M. Venizelos considère qu'à la suite des déclarations du Président, qui seront consignées au Protocole, toute insertion dans le traité à conclure, d'un principe déjà universellement reconnu serait superflue.

Cette manière de voir de M. le premier délégué de Grèce a recueilli l'assentiment unanime.

("Le Traité de Paix de Bucarest—Protocoles de la Conférence," Bucarest, 1913, pp. 24-25.)

⁴⁶ *Infra*, p. 51. For a fuller text of the correspondence, see Annual Report of the Board of Deputies (1913), pp. 54-74.

EXTRACTS FROM CORRESPONDENCE BETWEEN THE CONJOINT COMMITTEE AND
SIR EDWARD GREY.

CONJOINT JEWISH COMMITTEE,
19 FINSBURY CIRCUS, E.C.
13th October, 1913:

SIR,—The Jewish Conjoint Foreign Committee of the London Committee of Deputies of British Jews and the Anglo-Jewish Association have had under their consideration the diplomatic acts—principally the Treaty of Bucharest—by which the new territorial system in the Near East has been adjusted, and they have instructed us to invite the attention of His Majesty's Government to the omission from those documents of provisions either confirming or repeating on their own account, for the benefit of the annexed territories, the guarantees of civil and religious liberty and equality contained in the Protocol No. 3 of the Conference of London of February 3rd, 1830, and in Articles V, XXVII, XXXIV, XLIV, and LXII of the Treaty of Berlin.

Owing to the vast changes which have been made in the distribution of the Jewish communities throughout the region lying between the Danube and the Aegean, and more especially in view of the annexations to the Kingdom of Roumania, where hitherto the Civil and Religious Liberty Clauses of the Treaty of Berlin have been systematically evaded, this question has caused the Jewish people the gravest anxiety. The Conjoint Committee are well aware that in four of the annexing States, namely, Greece, Bulgaria, Serbia, and Montenegro, the Constitutions provide for the equal rights of all religious denominations, and they gratefully acknowledge that for many years past the Jews in those countries have had no reason to complain; but in the new conditions of mixed races and creeds which confront those States, and in face of the symptoms already apparent of an accentuation of the long-standing inter-confessional bitterness and strife, they prefer not to relinquish the international obligations by which the rights of their co-religionists have hitherto been secured. In this view they find themselves supported not only by all the Jewish communities of the Balkans, but also by all of the religious minorities in the dominions which have recently changed hands. The reasonableness of their view is further supported by the constitutional changes effected in like circumstances in Moldo-Wallachia and Serbia three-quarters of a century ago to the prejudice of the Jews, and also by the continued encouragement to religious intolerance afforded by the legalised oppression of a quarter of a million Jews in the Kingdom of Roumania.

The question was not ignored at the Peace Conference at Bucharest, but

it failed to receive any contractual solution. At the sitting of August 8th a scheme of religious, scholastic and cultural liberty was discussed, but no agreement was reached, owing to irreconcilable differences between the Patriarchists and the Exarchists. Moreover, the scheme as drawn up was confined to Christian communities (Protocol No. 10). At the sitting of August 5th, the question was raised in its wider aspects by a communication from the United States Government, expressing the hope that a provision would be introduced into the Treaty "according full civil and religious liberty to the inhabitants of any territory subject to the sovereignty of any of the five Powers, or which might be transferred from the jurisdiction of any one of them to that of another." This also met with no adequate response. M. Maioresco, the Chief Roumanian plenipotentiary, expressed the opinion that such a provision was unnecessary, "as the principle inspiring it had long been recognised, in fact and in law, by the public law of the Constitutional States represented at the Conference," but he added that he was willing to declare on behalf of the plenipotentiaries that "the inhabitants of any territory newly acquired will have, without distinction of religion, the same full civil and religious liberty, as all the other inhabitants of the State." In this view the other plenipotentiaries concurred. (Protocol No. 6.)

The Jewish Conjoint Committee regret that they are unable to accept either the reasoning or the assurances of M. Maioresco for the following reasons :—

1. Even if it were true that the constitutions of all the five contracting States assure civil and religious liberty to their inhabitants without distinction of religion—Roumania herself is a flagrant exception—it would not afford as permanent a guarantee as an international obligation. The circumstances which render such a guarantee necessary in the present case have already been referred to above.

2. In previous territorial changes in the Near East, the liberal provisions of the constitutions of the annexing States have not been held sufficient for the protection of religious minorities. Thus, in 1864, when the Ionian Islands were transferred to Greece, the Powers specifically extended to the new territories the civil and religious liberty obligations imposed on the Hellenic Kingdom in 1830 (see Article IV of the Treaty of London of March 20th, 1864). Again in 1881, when Thessaly was ceded to Greece, the religious liberty obligations of 1830 were repeated in the Treaty of Cession for the benefit of the Mussulman population (Convention of May 14th, 1881, Article VIII). A similar course was adopted by the Great Powers in 1886, when Eastern Roumelia was virtually annexed to Bulgaria (Article IV of Arrangement of April 5th, 1886; *cf.* Eastern Roumelia Statute, Article XXIV).

3. Roumania herself is not content to rely on the national constitutions of the other Balkan States where the destinies of her own expatriated brethren in race and religion are concerned. Although she persuaded the Conference of Bucharest to reject the American proposal to insert binding guarantees for the equitable treatment of racial and religious minorities in the annexed territories generally, she insisted on the adoption of an Annexe to the Protocols of the Conference pledging the signatory States to grant equal rights and religious and scholastic freedom to the Koutzo-Vlachs residing within their dominions. It is difficult to understand why these Treaty guarantees should be required for communities which have a Government at Bucharest, attached to them by racial and religious sympathies, to look after their interests, and not for the Jews, who have no such resource in the event of their rights being ignored.

4. The terms of M. Maioresco's declaration in regard to "the inhabitants of any territory newly acquired" are ambiguous, and in the case of the Jews of the northern districts of Bulgaria, now annexed to Roumania, might, and no doubt would be, interpreted as assimilating them to the oppressed Jewish communities of the annexed State. Moreover, in view of what happened to the Jews of the Dobrudja when that province was acquired by Roumania in 1878, any unilateral assurances from the Cabinet of Bucharest on this subject must fail to inspire confidence. The action of the Roumanian Government on that occasion was dealt with by us in the letter we had the honour of addressing to you on July 13th last, and it will consequently suffice to state now that the Jews of the Dobrudja were deprived of their national rights for thirty years after the annexation, and even then they experienced great difficulty in obtaining them. We cannot contemplate without anxiety the possibility of a repetition of this application of the principle formulated by M. Maioresco.

For these reasons the Jewish Conjoint Committee regard with grave apprehension the omission from the Treaty of Bucharest of guarantees of civil and religious equality for the inhabitants of the territories which have changed hands in virtue of that instrument, and they trust they may rely on His Majesty's Government to take such steps as will assure to those inhabitants the full enjoyment of the high protection accorded them by the London Protocol of 1830 and the Treaty of Berlin.

They venture to suggest that the objects they have in view might be attained by a collective note to the States signatory of the Treaties of London, Bucharest and Constantinople, declaring that the Great Powers regard the Civil and Religious Liberty clauses of the Protocol of 1830 and the Treaty of Berlin as binding upon all of them within their new frontiers and throughout all their territories. The Committee hope that His

Majesty's Government may see their way to propose such a note to the Great Powers.

We are, Sir,
Your humble and obedient Servants,
D. L. ALEXANDER,
President, London Committee of Deputies of British Jews,
CLAUDE G. MONTEFIORE,
President, Anglo-Jewish Association.

TO THE RT. HON. SIR EDWARD GREY, BART., M.P., K.G., ETC., HIS MAJESTY'S
PRINCIPAL SECRETARY OF STATE FOR FOREIGN AFFAIRS, ETC., ETC., ETC.

FOREIGN OFFICE,
October 29th, 1913.

GENTLEMEN,—I am directed by Secretary Sir E. Grey to acknowledge the receipt of your letter of October 13th, and to observe in reply that the Articles of the Treaty of Berlin, to which you refer, are in no way abrogated by the territorial changes in the Near East, and remain as binding as they have been hitherto as regards all territories covered by those Articles at the time when the Treaty was signed.

His Majesty's Government will, however, consult with the other Powers as to the policy of reaffirming in some way the provisions of the Treaty of Berlin for the protection of the religious and other liberties of minorities in the territories referred to, when the question of giving formal recognition by the Powers to the recent territorial changes in the Balkan Peninsula is raised.

I am, Gentlemen,
Your most obedient, humble servant,
EYRE A. CROWE.

THE CONJOINT JEWISH COMMITTEE.

CONJOINT JEWISH COMMITTEE,
19 FINSBURY CIRCUS, E.C.
17th November, 1913.

SIR,—We have had the honour of receiving the letter of the 29th ult. addressed to us on your behalf by Sir Eyre A. Crowe, and we have duly submitted it to our colleagues of the Conjoint Jewish Committee.

We are desired by the Committee to thank you for this communica-

tion and to express their lively satisfaction with the assurances you are good enough to give them and which appear to them to meet the necessities of the case they had the honour of placing before you.

The Committee propose, with your permission, to submit to you at a later stage, for the consideration of His Majesty's Government, an amended formula of civil and religious liberty in the Balkans, which they think will more clearly express the intentions of the Conference of London and the Congress of Berlin than the provisions on the same subject contained in the Protocol No. 3 of 1830 and the Treaty of 1878. They trust that His Majesty's Government may find it possible to make this or some similar amendment the basis for the proposed consultation with the other Great Powers, as they venture to think that in this way a means may be found of obviating a repetition of the misunderstandings by which the Jews of Roumania have hitherto been deprived of the rights sought to be conferred upon them by the Treaty of Berlin, besides securing the rights of other religious and racial minorities in the Balkans on a footing of perfect equality.

We, are, Sir,

Your most obedient humble servants,

DAVID L. ALEXANDER,

President, London Committee of the Deputies of British Jews,

CLAUDE G. MONTEFIORE,

President, Anglo-Jewish Association.

TO THE RIGHT HON. SIR EDWARD GREY, BART., M.P., K.G., ETC., ETC., ETC.

CONJOINT JEWISH COMMITTEE,

19 FINSBURY CIRCUS, E.C.

12th March, 1914.

SIR,—Referring to the letter we had the honour of addressing to you on the 17th November last, we now beg to submit to you, for the consideration of His Majesty's Government, a revised formula of civil and religious liberty in the Balkans in the hope that His Majesty's Government may be able to recommend it to the other Great Powers signatory of the Treaty of Berlin for application to the territories which have recently changed hands in the Near East under the provisions of the Treaties of London and Bucharest, and their subsidiary diplomatic Acts.

As you are aware, Civil and Religious Liberty in Bulgaria, Montenegro, Servia and Roumania is at present guaranteed in identic terms by Articles V, XXVII, XXXIV-V, XLIV of the Treaty of Berlin, and in Greece by the concluding *alinéa* of Protocol No. 3 of the Conference of London of the 3rd February 1830. We beg to suggest that in the extension of these

stipulations to the new territories they shall be elucidated by the addition to each of the following paragraph :—

All persons of whatever religious belief born or residing in the territories annexed to the Kingdom of ——— in virtue of the Treaties of London and Bucharest, and who do not claim a foreign nationality and cannot be shown to be claimed as nationals of a foreign state shall be entitled to full civil and political rights as nationals of the Kingdom of ——— in accordance with the foregoing stipulations.

Some slight modification of this paragraph will be required to meet the special circumstances of each case, as, for example, the omission of the reference to the Treaty of London in the case of Roumania, and perhaps, the insertion of the paragraph before the final *alinéa* of Article XLIV of the Treaty of Berlin instead of its addition to that Article.

In making this proposal we are chiefly actuated by a desire to obviate as far as may be possible a repetition in the territories annexed to the Kingdom of Roumania of the cruel evasion of Article XLIV of the Treaty of Berlin by which the native Jews of Roumania have hitherto been deprived of their civil and political rights. It will be within your recollection that this evasion was contrived by arbitrarily declaring all the native Jews to be *ipso facto* foreigners and by submitting them in that capacity to harsh disabilities which, while apparently applicable to all foreigners, in reality only affected them. We are further impressed by the fact that Bulgaria, Servia and Greece have each acquired a considerable addition to their Jewish populations and, although we acknowledge most gratefully the fidelity with which those States have hitherto performed their obligation in regard to civil and religious liberty, we think it wise, in view of the evil precedent created by Roumania, to strengthen the hands of their rulers and statesmen by extending those obligations in the form we now suggest to the territories they have recently acquired.

Our aims will, we think, be attained by the formula suggested above without in any way enlarging the scope of the original stipulations, as those stipulations were understood by their authors and the majority of the States to which they have hitherto been applied. It is to be noted that a similar amendment of Article XLIV was actually suggested by the Italian representative, the Count de Launay, at the Berlin Congress, with a view to obviating the very evasion of the Treaty subsequently effected by Roumania, and it was only rejected by the Congress because it was desired to adopt an identic formula for all the Balkan States and because it was felt that the formula as it stood "*paraît de nature à concilier tous les intérêts en cause.*" (British and Foreign State Papers, vol. lxix. pp. 1058-9.)

Now that it has been shown that this anticipation was illusory, we venture to hope that His Majesty's Government may see their way to realize the intentions of the Berlin Congress by suggesting to the Great Powers the amendment we have proposed, and that their recognition of the territorial changes in the Near East will be made conditional upon its adoption by all the annexing States, and more particularly by the Kingdom of Roumania.

We are, Sir,

Your most obedient humble servants.

DAVID L. ALEXANDER,

President, London Committee of Deputies of British Jews,

CLAUDE G. MONTEFIORE,

President, Anglo-Jewish Association.

TO THE RIGHT HON. SIR EDWARD GREY, BART., M.P., K.G., ETC., ETC., ETC.

(For the humanitarian interventions on behalf of the Jews of Morocco see "The Conferences of Madrid and Algeciras," *infra*, pp. 88-99.)

(i) THE JEWISH QUESTION AND THE BALANCE OF POWER
(1890 AND 1906).

It will be noted that none of the diplomatic interventions took cognizance of the ill-treatment of the Jews in Russia,^{46a} although until the recent Revolution it afforded, in magnitude and cruelty, the worst example of religious persecution known to modern Europe.⁴⁷ The cynical reason has already been indicated. But if international politics has affected to ignore the Jewish question in Russia, that question has not been without a very distinct influence on the evolution of the European international system. No survey of the Jewish problem in international politics would be complete without a reference to the curious part played by the Russo-Jewish question in the orientation of Russian policy which made for the alliance with France

^{46a} The United States was a conspicuous exception. See especially Mr. Blaine's despatch of February 18, 1891. (*Foreign Relations of U.S. 1891*, p. 737.)

⁴⁷ Wolf and Dicey: *Legal Sufferings of the Jews in Russia* (London, 1912).
Semenoff and Wolf: *The Russian Government and the Massacres* (London, 1907).

and through it for the Triple Entente. It is well known that even after the termination of the Russo-German secret treaty of mutual neutrality in 1890, the Tsar Alexander III remained for a long time reluctant to come to terms with Republican France. Towards the end of 1890 there was a fresh outbreak of official anti-Semitism in Russia, and the bitter cry of the persecuted Jews was heard all over Europe. At that moment it happened that negotiations for a large loan had been entered into by the Russian Treasury with the house of Rothschild, and a preliminary contract had actually been signed. As soon as the news of the persecutions reached New Court, Lord Rothschild resolved to break off the negotiations. At his instance, M. Wyshnigradski, the Russian Finance Minister, was informed by the Paris House that unless the oppression of the Jews were stopped they would be compelled to withdraw from the loan operation. Deeply mortified by this attempt on the part of a Jewish banking firm to deal with him *de puissance à puissance*, the Tsar peremptorily cancelled the contract and ordered that overtures should be made to a non-Jewish French syndicate headed by M. Hoskier of Paris. Thus was forged the main financial link in the chain of common interests which soon after led to the Dual Alliance. Incidentally, it may be mentioned that one of the effects of the Alliance was to secure to the Tsar a much larger immunity from criticism in his persistent ill-treatment of the Jews.⁴⁸

Fifteen years later the Jewish question also played a part in the curious Russo-German *rapprochement* which nearly wrecked the Dual Alliance. Much light has been shed upon this incident by the recent publication of the late Tsar's secret correspondence with the German Emperor⁴⁹ and other Russian State documents, notably a Memorandum on the Jewish question drawn up by Count Lamsdorf in January 1906.⁵⁰ Negotiations for the adhesion of Russia to the

⁴⁸ The story is told by M. Ernest Daudet in his *Histoire Diplomatique de l'Alliance Franco-Russe*, pp. 261-262, but the present writer is able to confirm it from other sources.

⁴⁹ The famous "Nikky-Willy" correspondence (see *Times*, September 4, 1917; *Daily Telegraph*, September 4, 27 and 29, 1917; and *Morning Post*, September 15, 1917.)

⁵⁰ *Infra*, pp. 57-62.

Anglo-French Entente had been opened in the winter of 1903, but owing to the war with Japan and the revolutionary outbreak in Russia the Tsar's views on the subject had changed. Worked on by the German Emperor, he imagined himself a victim of English intrigue, and he concluded with the Kaiser at Bjorkoeon July 23, 1905, the bases of a new Triple Alliance to consist of Russia, Germany, and France. While the Treaty was still unratified certain reactionaries in Russia seized the opportunity of endeavouring to give it a specially anti-Jewish bias. On the one hand the bureaucracy had persuaded themselves that the Jews were the main authors of the October Revolution, and on the other Count Witte and his colleagues in the Cabinet were furious at the renewed rebuffs they had received at the hands of the House of Rothschild in their efforts to raise new loans on the Paris and London markets.⁵¹ It was in these circumstances that Count Lamsdorf prepared a Memorandum proposing to the Tsar that an agreement should be concluded with Germany providing for the special *surveillance* of Jewish activities on the lines of a secret Protocol which had been drawn up by the two Powers on March 14, 1904, for the similar *surveillance* and extradition of Anarchists.⁵² At the same time the Count suggested that the Pope should be asked to adhere to this new Holy Alliance. This strange proposal was approved by the Tsar, who ordered the immediate initiation of negotiations with the Wilhelmstrasse. In due course this instruction was acted upon,⁵³ but in the following May Count Lamsdorf fell, and with the entry of M. Izvolsky into the Russian Foreign Office a new and saner direction was given to Russian Foreign policy. Nothing more was heard either of the Bjorkoe Treaty or of the proposed Triple Alliance against the Jews.

⁵¹ The statement in the Memorandum that Messrs. Rothschild had been excluded by the Russian Government from these loan operations is inaccurate. The exclusion had come from the other side, and at the very time that the Memorandum was being prepared Count Witte had sent representatives of the Finance Ministry to London to endeavour to overcome Lord Rothschild's reluctance.

⁵² This Protocol is published in vol. vi. of the *Secret Documents* published by the Russian Revolutionary Government in February 1918.

⁵³ Secret letter from the Kaiser to the Tsar published in the Soviet organ *Inviestia*, December 19, 1917.

DOCUMENT.

THE PROPOSED ANTI-SEMITIC TRIPLE ALLIANCE.

(The footnotes appended to the following document are those of Count Lamsdorf himself. Footnotes by the Editor will be found at the end.)

Secret.

ON THE ANARCHISTS.

The events of the year 1905, which became particularly acute at the beginning of October last, and, after a number of so-called "strikes," culminated in an armed revolt at Moscow and in other cities and localities of the Empire, show quite clearly that the Russian revolutionary movement, apart from its deep social economic causes of an *internal* nature, has also a quite definite *international* character. This side of the revolutionary movement, which deserves very serious attention, manifests itself chiefly in the fact that it is supported to a large extent from abroad.

This is clearly indicated by the striking phenomenon that the Russian revolutionists dispose of an enormous quantity of *arms* imported from abroad, as well as of considerable *pecuniary means*, since there can be no doubt that the revolutionary movement hostile to the Government, including the organising of various kinds of strikes, must have cost the revolutionaries large sums of money.

Since it must be recognised that such support of the revolutionary movement with arms and money could hardly be set to the account of foreign governments (with the exception of certain isolated cases, as for instance, the support of the Finnish movement by Sweden, and perhaps the partial support of the Polish movement by Austria), one inevitably arrives at the further conclusion that the support of our revolutionary movement enters into the calculations of some *foreign capitalist organisations*.

This result must be coupled with the fact that the Russian revolutionary movement is altogether distinguished by an alien racial character, since it was precisely the various allogenes—the Armenians, Georgians, Letts, Esthonians, Finns, Poles, etc.—who rose one after another against the Imperial Government for the purpose of obtaining, if not complete political autonomy, at least equal rights with the native population of the Empire. When one considers, moreover, that, as is established with sufficient certainty, among these allogenes a most important part is played by the Jews, who have figured and still figure as a specially active and aggressive element of the revolution, whether as individuals, or as leaders of the movement, or in the shape of entire organisations (*e.g.* the Jewish Bund in the Western

region), one may assume with certainty that the aforesaid support of the revolutionary movement from abroad emanates precisely from *Jewish* capitalist circles.

In this respect one cannot ignore the coincidence of several phenomena which could hardly be accidental. This coincidence rather logically leads to the further result that our revolutionary movement is not only, as already stated, *supported* from abroad, but to a certain extent also *directed* from there. The strikes broke out with particular force precisely in October last, that is to say, at a time when our Government was making the attempt to bring about a large foreign loan without the participation of the Rothschilds,¹ and just in the nick of time for the frustration of the realisation of that financial scheme. The panic provoked by it among the holders of Russian securities and the hurried sale of those securities could not but procure in the end, as was safely to be expected, new profits for the Jewish capitalists and bankers, who speculated consciously and openly, as in Paris for instance, on the fall of Russian securities.*

On the other hand, the hostile movement against the Government, which flared up immediately after the promulgation of the Manifesto of October 30th, assumed for a time milder forms as soon as the bulk of the Russian people, of whom the revolutionists had taken no account at first, responded to the hostile manifestations against the Government by pogroms upon the Jews.²

This connexion between the Russian revolutionary movement and the foreign Jewish organisations is, moreover, confirmed in an obvious manner by some significant facts which have even percolated through the Press. Thus, for instance, the above-mentioned wholesale importation of arms into Russia, which, as it transpires from the Agency reports, is carried on very largely from the continent of Europe *via England*, becomes quite intelligible when one considers that already in June 1905, precisely in England, an Anglo-Jewish Committee for collecting donations for the equipment of fighting groups among Russian Jews was openly organised with the most active co-operation of the well-known Russophobe publicist Lucien Wolf.³ On the other hand, on account of the melancholy consequences of the revolutionary agitation, which recoiled upon the Jews themselves, in the very same England a Committee of Jewish capitalists was founded under the presidency of Lord Rothschild, which concentrated enormous sums of money, collected by way of subscriptions in France, England and Germany, for the ostensible purpose of granting relief to the Jewish subjects of Russia who had suffered by the pogroms. Lastly, the Jews in America are organising collections both for the victims and for the arming of the Jewish youths, without formally separating these two aims from one

* Actual Privy Councillor Nelidow's despatch of December 1-14, 1905.

another.†⁴ There is thus no room for doubt as to the close connexion of the Russian revolution with the Jewish question in general, and with the foreign Jewish organisations in particular, which connexion is already perfectly clear from the point of view of its fundamental principles, since the founders of the Socialist doctrine, Lassalle and Marx, who wield so great an influence on the present mind of the Russian University youth, were notoriously both of Jewish origin. Nor can it be in any way doubted that the practical direction of the Russian revolutionary movement is in Jewish hands. While our newspapers pass over, no doubt intentionally, the leading part played by them in almost complete silence, it is no longer deemed necessary to make a secret of it abroad, even in Socialist circles. A member of the Jewish Working-men's Union (Bund), named Hervaille, thus declared openly at a meeting of the Dutch Socialists at Amsterdam on the 22nd October (November 4th) that in spite of the persecutions to which they were subjected, it is precisely the Jews who are standing at the head of the Russian revolutionary movement.‡ In Italy, numerous meetings of sympathy with the said movement, which in the course of last November were organised at Rome, Milan, Turin, etc. ostensibly, "Pro liberta Russa," ended in manifestations "Pro ebrei Russi."§

Thus, with the evident promotion of the Russian revolution by the Jews of all countries, in one form or another, to a larger or smaller extent, providing it above all with intelligent leaders, arms and pecuniary means, the so-to-say international side of our revolutionary movement becomes perfectly clear, and at the same time reveals those forces which the Imperial Government must combat, as well as the factors of State and public life abroad, on which it must rely in this struggle.

Starting from the idea set out above, namely, that our revolutionary movement is being actively supported and partly directed by the forces of universal Jewry, we also discover with great probability the organising and intellectual centre where the main supports and feeding organs of the militant hostility to the Government in Russia are hiding themselves. That is the famous pan-Jewish universal union established in the year 1860, the "Alliance Israélite Universelle," with a Central Committee in Paris, which possesses gigantic pecuniary means, disposes of an enormous membership, and is supported by the Masonic lodges of every description (according to some reports, they have again been carried into Russia in recent years), which represent

† Communicated by Emil Deschamps in the *Journal de St. Pétersbourg*, of December 23, 1905.

‡ Despatch from the Imperial Ambassador at the Hague of October 24, 1905, No. 22.

§ Despatch from the Imperial Ambassador at Rome of November 29, 1905, No. 23.

the obedient organs of that universal organisation. ||⁵ The principal aim of the "Alliance Israélite Universelle"—the all-round triumph of anti-Christian and anti-monarchist Jewry (which has already taken practical possession of France) by means of Socialism which is to serve as a bait for the ignorant masses—could not but find the State system of Russia—a land of peasants, Orthodoxy and monarchism—an obstacle in its path. Hence the fight against the existing Government, which was started with consummate calculation at the very moment of our greatest weakness brought about by the Japanese war. That is also why the chief watchword of this inexorable campaign at the present moment is universal, equal, direct and secret suffrage; that is to say, it fights for a principle which if recognised by the Government would bring about immediately, even before the meeting of the State Duma, the complete removal of the existing historical-legal impediments to the triumph of Jewry in Russia, though their complete abolition is not likely to be welcome to the future chosen men of the Russian land either.

The said factors, which support the fight of the revolutionary elements against the Imperial Government from abroad, also afford on the other hand the opportunity of recognising those forces by whose joint work a favourable soil for a successful struggle with international revolutionary Socialism might be created. As a matter of fact, there can be no doubt that, in accordance with the main considerations set out above, the universally organised international revolutionary Jewry must be confronted by other enemies, apart from Russia, who by that alone must become the friends and allies of the Imperial Government. Anti-monarchist Jewry, sustained by money, cannot help undermining in every way the Monarchical German Empire, sustained by its material power. On the other hand, owing to a tradition centuries old, the universally organised anti-Christian Judaism cannot help seeing an irreconcilable enemy in the only Christian community that is likewise organised on a universal and centralised basis, viz. the Roman Catholic Church.

It seems, therefore, that the friendly relations which have recently been brought about so happily between the Imperial Government and the German Empire,⁶ as well as the Holy See, are destined to exercise a very beneficent influence with regard to the anti-monarchical and anti-Christian revolutionary movement in Europe.

As for the Vatican, it must be remembered first of all that the Protestant Government of Germany has recognised long ago the full importance of the Holy See for the defence of the traditional foundations of European culture.

|| According to the rules of French Freemasonry, promotion to the eighteenth degree makes the recipient automatically a member of the "Alliance Israélite Universelle," while out of the nine members of the Secret Supreme Council of Freemasonry five must be Jews.

While in its internal policy, it is leaning on the Catholic Centre-party, it has necessarily arrived at a friendly accord with the Pope in its foreign policy as well. As for Russia, the friendly assistance of the Vatican might likewise prove to be of supreme importance just in the sense indicated above. Even apart from the authoritative influence of the Holy See, through the medium of the local clergy, especially in our Polish affairs—in this respect, the latest Encyclical of the Pope to the Bishops of Poland presents a significant step in meeting the wishes of the Russian Government—the Vatican could render us an invaluable service by communicating matter-of-fact data on the dissolving Jewish freemasonry organisation and its branches, whose threads converge in Paris—an organisation about which our Government is unfortunately but little informed, whereas the Vatican is sure to watch its activity in the most attentive manner.

As for Germany, on the other hand, any further approach of its Government towards Russia—and one of a still closer nature than the agreement founded on the Protocol of March 1st, 1904, on combating Anarchism—would meet with unqualified sympathy at Berlin, since it cannot be overlooked that, next to Russia, Germany is undoubtedly the first State that will have to sustain the struggle with the Social-Revolutionary party. Both the Government and Society in Germany already take note at the present moment with the greatest apprehension of the indubitable effect of the Russian events on the Social-Democratic and Labour question, not to mention the movement of specific hostility to the Government in the Provinces of Prussian Poland.

Indeed, the West-European Socialists of various nationalities do not consider it any longer necessary to make a secret of their intention to inaugurate in this very month of January 1906, a movement hostile to the Government of Germany—which is to reach its highest development on the 1st of May 1906—and has already started it in Prussia and in Saxony with the self-same watchword of "Universal Suffrage." It could hardly be doubted that behind this movement—which they intend to organise, in accordance with the resolutions passed by the Socialist Congresses held at Jena and Breslau, by the same means as in Russia—there stand in reality the above indicated international aims and considerations of principle, that is to say, the same anti-Christian and anti-monarchical factors which had likewise been and are still in operation in the Russian revolutionary movement. At any rate, according to an observation by the *Deutsche Tageszeitung*, which has made it its special aim to organise the fight against the impending general European revolution, the more candid publicists of Social-Revolutionary tendencies are already expressing unceremoniously their hope that the Russian movement of hostility to the Government only presents a prelude to that general European upheaval which, among other things, is to destroy utterly the monarchical order of contemporary Europe.

62 DIPLOMATIC HISTORY OF THE JEWISH QUESTION.

When one places oneself on this standpoint, one cannot help perceiving in everything said above nothing else but partial manifestations of a general revolutionary scheme the menace of which is not confined to Russia, and which, according to the formula of the well-known Liebknecht, consists essentially in realising a Republic in politics, Socialism in economics, and Atheism in the domain of religion.

In view of the considerations set forth above, no doubt can remain as to the absolute necessity of a confidential and sincere exchange of views on our part, in the sense indicated above, with the leading spheres both at Berlin and Rome. It could become the foundation of a most useful joint action, first, for the purpose of organising a vigilant supervision, and then also for an active joint struggle against the common foe of the Christian and monarchical order of Europe. As a first step in the said direction, and for the purpose of elucidating the main principles for a future programme of joint action, it seems to be desirable to confine ourselves for the present to a quite confidential exchange of views with the German Government.

(Signed) COUNT LAMSDORF.

Negotiations must be entered into <i>immediately</i> . I share entirely the opinions herein expressed.	} Endorsement in the Tsar's handwriting.
TSARSKOYE SELO, January 3rd (O.S.) 1906.	

(Translated from the Russian text in vol. vi. of "Secret Documents," published by the Soviet Commission of Foreign Affairs.)

NOTES.

¹ *Supra*, p. 56 (note).

² How these pogroms were organised by the Russian Secret Police will be found described from authentic documents in Semenoff: *The Russian Government and the Massacres*.

³ This is not quite accurate. The object of the Committee was to assist the Self-Defence groups of Russian Jews in resisting the pogroms. No arms were exported to Russia, as the groups in question, and indeed the Russian Revolutionists themselves, found it quite easy to purchase arms from the Imperial Russian magazines.

⁴ This also is quite untrue, as the published accounts of the Funds show.

⁵ Freemasons will be able to judge of the accuracy of this statement. It will suffice to say here that it is as untrue as it is ludicrous. The same remark applies to the absurd reference to the Alliance Israélite.

⁶ This is clearly a reference to the Bjoerkoe interview and shows that M. Izvolsky was in error when he stated that the Agreement resulting from the interview was disapproved by Count Lamsdorf. (See interview with M. Izvolsky in *Le Temps*, September 15, 1917.)

III. INTERVENTIONS BY RIGHT.

(a) STATUS OF JEWS IN FOREIGN COUNTRIES.

Nor all the diplomatic interventions on behalf of Jews have proceeded on humanitarian grounds. Through the political assimilation of the Jews with the populations among whom they dwell, and more particularly through their emancipation in the various countries of Western Europe and America, they have acquired the same rights in foreign countries under International Law and treaties as their Christian fellow-citizens. Unfortunately this has not been universally recognised, and it has frequently happened that, when they travelled into countries where Jewish disabilities still lingered, they were held liable as Jews to ill-treatment from which their Christian fellow-countrymen were free. The question of the legality of this ill-treatment arose at an early date.

In 1556, the Jews in the Papal States suffered a terrible persecution at the hands of the fanatical Pope Paul IV. This culminated in the imprisonment of all the Marranos or Crypto Jews of Ancona, and their sentence to the stake. At that time the most influential Jews in Europe were the Mendes or Nasi Family of Portugal and the Low Countries, the head of which was the famous Donna Gracia Nasi. Her son-in-law, who afterwards became Duke of Naxos in the service of the Porte, for whom he conquered Cyprus, was the Rothschild as well as the Disraeli of his day.⁵⁴ The Italian Jews sent piteous appeals to Donna Gracia, who was then settled in Constantinople. She at once addressed herself to the reigning Sultan, Solyman the Magnificent, and entreated his intervention, on the ground that the Marrano Jews in Ancona were for the most part Turkish subjects. The appeal was well conceived, for the

⁵⁴ Levy: *Don Joseph Nasi, Herzog von Naxos und seine Familie* (Breslau, 1859). See also Graetz: *Geschichte*, vol. ix. *passim*.

Sultan was outraged by the idea that subjects of his could be maltreated by a foreign potentate. He promptly responded (March 9, 1556) by sending an ultimatum to the Pope, demanding the immediate release of his unjustly accused lieges, under pain of reprisals on the foreign Christians within his own dominions.⁵⁵ The Turk in those days was not in the habit of treating Christian States with an excess of ceremony, and the Pope realised the wisdom of complying with the ultimatum. He revenged himself, however, by burning those of the prisoners who could not be shown to be Turkish subjects.⁵⁶

This incident is of peculiar interest for its bearing on the still much debated question of the political status of Jews in the lands of their "Dispersion." The Turkish Jews in 1556 seem to have had no doubt that they were full nationals of the Ottoman Porte and as such entitled to the protection of the Turkish Sultan. The precedent, however, was far from decisive. In other circumstances other views have prevailed. Thus in 1655, when the Commonwealth declared war on Spain, and an order was issued for the confiscation of the property of Spaniards in England, some of the Spanish (crypto Jews, then resident in London, appealed against the order on the ground that their national status was that of Jews and not that of Spaniards. This plea was allowed by the Admiralty Commissioners, to whom it was referred, and they discharged the orders made against the appellants.⁵⁷

The question slumbered for a century and a half, and when it reappeared the Turk was again on the side of the light. In 1815, there was a dispute on this subject between Austria and Turkey. At that time the Jews of Turkey were treated better than the Jews of Austria. Austria applied to Turkish Jews visiting her territories

⁵⁵ The text of the Sultan's letter is preserved in the rare *Lettere di Principi* (Venice, 1581), iii. 171.

⁵⁶ Graetz: *Geschichte*, ix. 361, and 571-572.

⁵⁷ *Transactions, Jewish Historical Society*, iv. 478 *et seq.* The plea has been revived during the present war, but with less success. It was largely used by Russian Jews in order to escape conscription under the Anglo-Russian Convention of 1916. (See Petition of Foreign Jews Protection Society, *Herald*, July 22 and 29, 1916.) See also the case of the prosecution of Henry Samuel, *Times*, September 19, 1918.

the disabilities imposed upon her own Jews. Turkey protested on the ground that, according to the treaties—mainly the Treaty of Carlowitz—in force between the two powers, Austria had no right to make any distinction between Turkish Jews and other subjects of the Ottoman Porte. This contention was held to be valid by the Austrian Government, and the incident was terminated by the issue of an instruction to the police of Lower Austria, where the disabilities complained of were in force, ordering them to treat all Turkish subjects alike without distinction of race or creed.

The Treaty of Carlowitz by which this case was governed left very little option to the Austrian Government,⁵⁸ inasmuch as the reciprocity for which it stipulated was not based, as in other treaties, on what is known as "National treatment," that is to say that the nationals of each contracting party visiting the territories of the other shall be treated on the same footing as the nationals of the territories they visit. The reason, no doubt, was that the racial and religious heterogeneity of both Empires, and the differential treatment to which it gave rise in their respective internal administrations, could not be recognised internationally without grave risk of friction and controversy. The lesson was not lost on other States, especially those which desired to maintain their differential treatment of Jews as against the doctrine of undenominational Nationality which was chiefly championed by France. The result was a strengthening of the "National treatment" clause of commercial treaties, and this, with the progress of religious liberty, led to a succession of fresh international disputes.

For many years, curiously enough, the chief offender was the democratic Swiss Confederation, the Federal constitution of which was exclusively Christian, while the Cantonal legislation was in many cases frankly and even aggressively anti-Semitic. Until 1827 the Swiss Commercial Treaties contained no hint of religious differentiation, but in that year, availing themselves of the reactionary and clerical sympathies of the government of Charles X, the Federal Authorities negotiated a Treaty with France containing a "National treatment" clause, under which the powers of the separate Cantons to deal as

⁵⁸ *Infra*, p. 71.

they pleased with Jews were, in effect, reserved. But this was not all. Lest the clause should be misinterpreted, the French Minister at Berne was authorised to address a secret Note to the President of the Swiss Diet acknowledging that it implied the desired restriction, on "the Jewish subjects of the King."⁵⁹ The transaction was obviously one which could not stand the light of the Revolution of 1830, and when three years later the Government of the Canton of Basle applied the Treaty in all its rigour to French Jews, the Duc de Broglie, then French Minister for Foreign Affairs, issued an Ordinance suspending the operation of the Treaty in regard to the offending Canton, and followed this up by severing diplomatic relations and by placing a military cordon on the frontier.⁶⁰ The King himself approved the action of his Minister in an energetic speech to a deputation of the Consistoire Israélite. However, in 1835 the Ordinance was withdrawn, and until 1850 the peace was more or less preserved by a tacit *modus vivendi*.

The resistance of France was rendered difficult, partly by perplexities of general politics, but more immediately by the fact that the question was a larger one than it had at first appeared. In February 1840 a French Jew had been refused a *permis de séjour* by the police of Dresden on the ground that Jews were not permitted to reside in the city. The case was precisely similar to that of Switzerland, and M. Guizot, who was then Foreign Minister, hesitated to take up a strong attitude as he was afraid that the precedent might involve him in complications with other countries.⁶¹ Nevertheless, French public opinion was aroused, and the Chamber, after a lively debate, called upon the Government to make suitable representations to Saxony.⁶² In 1850 a Commercial Treaty between the United States and Switzerland was signed at Berne, but the American Senate, on the advice of the President, refused to ratify it because it dis-

⁵⁹ Brisac: *Ce que les Israélites de la Suisse doivent à la France* (Lausanne, 1916), pp. 9-13. *Infra*, pp. 71-72.

⁶⁰ Brisac: *op. cit.*, pp. 14-15, 16-17.

⁶¹ Jewish disabilities still existed in England, Germany, Austria, Russia, the Italian States, Spain and Portugal.

⁶² May 28, 1841. A full report of the debate will be found in the *Moniteur*, May 29, 1841.

criminated against non-Christians.⁶³ This was followed almost immediately by a revival of the anti-Semitic activity of the Basle police, chiefly at the expense of French Jews resident in the Canton. The French Government again protested energetically and insisted on the withdrawal of the police measures. The demand was sulkily complied with, the Cantonal Government reserving what they called "the principle."⁶⁴

In 1855 a new phase of the conflict was opened by the negotiation of two further Commercial Treaties with Switzerland—one by Great Britain and the other by the United States—in both of which the invidious reservations, substantially as in the French Treaty of 1827, were retained.⁶⁵ Some mystery attaches to the circumstances in which these treaties were signed and ratified,⁶⁶ but the probable explanation is that the Swiss negotiators promised in effect that there should be no discrimination. This conjecture is confirmed by the action of the Federal Assembly in the following year, in proposing a modification of the Constitution by which equal rights should be accorded to the Jews in all the Cantons. Unfortunately not all the Cantons agreed,⁶⁷ and in 1857 American public opinion became much excited at the discovery that in the Canton of Neuchâtel American citizens of the Jewish faith could not be protected by American passports.⁶⁸ From this time until 1861 the United States took the place of France as the champion of Religious Liberty in Switzerland, and was strongly supported by Great Britain.⁶⁹ Her efforts, however, were not successful, and it was still reserved for France to settle the question.

The opportunity presented itself when in the early sixties, under the influence of Cobden and Chevalier, France denounced all her

⁶³ Stroock: "Switzerland and American Jews," in *Publications of the American Jewish Historical Society*, xi. 7-8, 15.

⁶⁴ Brisac: *op. cit.*, p. 27-33.

⁶⁵ *Infra*, pp. 73-74.

⁶⁶ Stroock: *op. cit.*, p. 15.

⁶⁷ Brisac: *op. cit.*, p. 37.

⁶⁸ Stroock: *op. cit.*, pp. 24-32.

⁶⁹ Lord Clarendon on December 17, 1857, instructed the British Minister at Berne to make representations to the Swiss Government (Stroock: p. 36). The bulk of the official correspondence of the United States on the subject is printed by Cyrus Adler in *Publications of the American Jewish Historical Society*, xv. 25-39.

Commercial Treaties. In negotiating the new Treaty with Switzerland she resolutely set her face against all discriminations, or possibilities of discrimination, between French citizens on the score of religion. The result was that she obtained in her new Treaty (June 30, 1864) a form of article without precedent in instruments of the kind.⁷⁰ In place of "National treatment," French citizens in Switzerland "without distinction of creed" were assured the same treatment as was accorded to "Christians."⁷¹ This striking victory was speedily followed by the abolition of all Jewish disabilities throughout the Confederation.⁷²

A series of more formidable cases of the same kind arose at a later period out of the disabilities imposed on Jews in Russia. The Powers mainly affected were the United States and Great Britain. Both had Treaties of Commerce with Russia, the American Treaty having been concluded in 1832 and the British in 1859. Both Treaties contained, in substantially the same form, articles guaranteeing reciprocal "National treatment" to the subjects of the High Contracting parties. There is, however, an extraordinary contrast in the interpretation of these Treaties by the British and American Governments respectively.

The question first came up for consideration in 1862. Certain British Jews resident in Warsaw complained that the disabilities imposed upon native Jews were also imposed upon them, and they appealed to Her Majesty's Government for protection. Lord John Russell held that the articles of the Treaty of 1859, by which British subjects in Russia and Russian subjects in England were to be treated on an equal footing with the nationals of those countries, did not mean that British Jews in Russia should be treated as British subjects, but that they should only have equal treatment with their oppressed co-religionists. He accordingly declined to seek any relief for the petitioners.⁷³ The case gave rise to no controversy, not only

⁷⁰ *Infra*, p. 73.

⁷¹ This was not in the Commercial Treaty but in a separate Treaty of Establishment signed the same day.

⁷² Sanctioned by the Referendum of January 14, 1866 (Brisac, p. 54).

⁷³ *Parl. Paper, Russia*, No. 4 (1881), p. 21. *Infra*, pp. 81-82.

because the British and Russian Governments were at one in their interpretation of the Treaty, but because the facts were not made public at the time. It proved, however, a fatal and humiliating precedent. In 1880 a terrible era of persecution was inaugurated for the Jews of Russia, and it soon reacted on their foreign brethren visiting the country. Towards the end of the year a naturalised British Jew named Lewisohn was expelled from St. Petersburg because he was a Jew, and he invoked the protection of his Government. Lord Granville, who was then Foreign Secretary, was at first disposed to regard the expulsion as a violation of the Treaty,⁷⁴ but later on he became acquainted with the precedent of 1862, and he declined to depart from it.⁷⁵ In 1890, at the instance of the Jewish Conjoint Committee, Lord Salisbury submitted the question to the Law Officers of the Crown, with the result that the precedent set by Lord John Russell was confirmed on its merits and not—as in the case of Lord Granville—*quâ* precedent only.⁷⁶ The last occasion on which an effort was made to obtain a reversal of this decision was in 1912. The Conjoint Committee addressed to the Secretary of State, Sir Edward Grey, an elaborate Memorandum reviewing the history and legal aspects of the question.⁷⁷ The reply was in effect a reaffirmation of the previous decisions, but the grounds on which it was rested were different. Sir Edward Grey did not discuss the reasonableness of the established interpretation, but he pleaded that any departure from it would only lead to the termination of the Treaty, and that this would serve neither British nor Jewish interests.⁷⁸

The dispute with the United States pursued a very different

⁷⁴ *Parl. Paper, Russia*, No. 3 (1881), pp. 17-18.

⁷⁵ *Parl. Paper, Russia*, No. 4 (1881), pp. 21-22. *Infra*, p. 82.

⁷⁶ Letter from Sir T. H. Sanderson on behalf of the Marquis of Salisbury, January 29, 1891.

⁷⁷ "Memorandum on the grievances of British subjects of the Jewish faith in regard to the interpretation of Articles I and XI of the Anglo-Russian Treaty of Commerce and Navigation of January 12, 1859" (August 2, 1912). Printed for confidential use, 9 pp. fcp. The text together with further correspondence has been reprinted in the Annual Reports of the Board of Deputies and the Anglo-Jewish Association for 1912.

⁷⁸ *Infra*, pp. 82-83.

course. In its earliest stages it was dealt with by minor diplomatic and consular officials very much in the spirit of Lord John Russell,⁷⁹ but when in 1880 the Russian Government began to expel American Jews from St. Petersburg, the question was taken in hand by the Secretary of State as one of gravity. It was at once recognised that a religious discrimination between American citizens could not be tolerated in any American Treaty. This was quite apart from the question of the legal interpretation of the Treaty of 1832.⁸⁰ That question, however, was dealt with vigorously by Mr. Blaine in July 1881. He took the broad view that the intention of the United States in 1832 was not, and could not have been, that which the Russian Government read into the Treaty, that the Russian interpretation was indefensible on moral grounds, and that on such questions local law cannot be permitted to override the express terms of a Treaty.⁸¹ On this basis the United States patiently sought a reversal of the Russian view, but without success. The fight lasted thirty years. Eventually American public opinion became agitated, an organised movement for the termination of the obnoxious treaty was set on foot, and in December 1911 the House of Representatives at Washington sent a strongly worded joint resolution to the Senate declaring that Russia had violated the Treaty and calling upon the President to denounce it. The Russian Ambassador in Washington expressed official disapproval of the resolution, but President Taft acted upon it without waiting for the Senate, and denounced the Treaty on December 15. Thereupon the Senate contented itself with a joint resolution approving the action of the President.⁸²

The question of the status of Jews in foreign lands has also arisen in Palestine and Morocco. In 1882 the Turkish Government, fearing a Zionist propaganda, prohibited the settlement of foreign Jews in the Holy Land. The United States protested, and in 1887 and 1888 similar action was taken by Great Britain and France.

⁷⁹ Cyrus Adler: *Jews in the Diplomatic Correspondence of the United States*, pp. 73-74. See also dispatch from Mr. Foster, October 18, 1880, in *Foreign Relations of the United States*, 1881, p. 991.

⁸⁰ See dispatches quoted by C. Adler, *op. cit.*, pp. 75-96 from *Foreign Relations* 1880 and 1881.

⁸¹ *Infra*, pp. 76-78.

⁸² *Infra*, pp. 79-80.

In the following year the restriction was removed.⁸³ In the case of Morocco, Great Britain solved the question in advance by stipulating in her Treaty with that country, negotiated in 1855, that her Christian, Mohammedan, and Jewish subjects visiting and residing in Morocco should be treated on an equal footing.⁸⁴

DOCUMENTS.

ART. XIV.—TREATY OF CARLOWITZ BETWEEN THE EMPEROR AND THE GRAND SULTAN, Jan. 26, 1699.⁸⁵

XIV. Trade shall be free for the Subjects of both Partys, in all the Kingdoms and Dominions of both Empires, according to the antient sacred Capitulations. And that it may be carry'd on by both Partys with Profit and without Fraud and Deceit, the same shall be settled by Stipulations between Commissarys deputed on both sides, well vers'd in Merchandize, at the time of solemn Embassys on both sides, and as has been observ'd with other Nations in Friendship with the Sublime Empire, so his Imperial Majesty's subjects of what Nation soever, shall enjoy the Security and Advantage of Trade in the Kingdoms of the Sublime Empire, as well as the usual Privileges in a fitting manner.

("Collection of Treatys of Peace and Commerce," London, 1732, vol. iv. p. 298.)

Interpretation by Austrian Government. Instructions to Police of Lower Austria, Dec. 28, 1815.

"All differences established between Turkish Jews and other subjects of the Ottoman Porte appear contrary to the spirit of the Treaties. These speak of 'Turkish subjects' without making any exception. It is consequently to this quality only that one must have regard, and not in any case to the religion or profession of individuals."

(Quoted by M. Carnot in Debate in French Chamber. *Moniteur*, May 29, 1841.)

ARTS. I, III AND VI OF FRANCO-SWISS TREATY, MAY 30, 1827.

Article premier.—Les Français seront reçus et traités, dans chaque canton de la Confédération, relativement à leurs personnes et à leurs pro

⁸³ Cyrus Adler: *op. cit.*, pp. 7-19. See also *infra*, p. 103 (note).

⁸⁴ *Infra*, p. 83.

⁸⁵ Confirmed by Art. XIII of the Treaty of Passarowitz, July 21, 1718.

priétés, sur le même pied et de la même manière que le sont ou pourront l'être à l'avenir les ressortissants suisses des autres cantons. Tout genre d'industrie et de commerce permis aux ressortissants suisses des divers cantons le sera également aux Français et sans qu'on puisse exiger d'eux aucune condition pécuniaire ou autre plus onéreuse. Lorsqu'ils prendront domicile ou formeront un établissement dans les cantons qui admettent les ressortissants de leurs co-états, ils ne seront également astreints à aucune autre condition que ces derniers.

Art. 3.—Les Suisses jouiront en France des mêmes droits et avantages que l'article premier assure aux Français en Suisse, de telle sorte qu'à l'égard des cantons qui, sous les rapports spécifiés audit article premier, traiteront les Français comme leurs propres ressortissants, ceux-ci seront, sous les mêmes rapports, traités en France comme les nationaux. Sa Majesté Très Chrétienne garantit aux autres cantons les mêmes droits et avantages dont ils feront jouir ses sujets.

Art. 6.—Les Français établis en Suisse, de même que les Suisses établis en France en vertu du traité de 1803, continueront à jouir des droits qui leur étaient acquis. Toutes les dispositions de la présente convention leur seront d'ailleurs applicables.

(Brisac : "Ce que les Israélites de la Suisse doivent à la France," pp. 10-11.)

*Interpretation by French Negotiator. Secret Note to the Swiss Diet,
August 7, 1826.*

Le premier point qui a paru avoir besoin de quelques éclaircissements est relatif aux israélites sujets du roi, lesquels, en cette dernière qualité, pourraient se croire autorisés à réclamer, dans tous les cantons suisses, le bénéfice de l'article 5 du projet de traité arrêté entre la commission de la Diète et moi. Je ferai observer à cet égard que, cet article premier n'accordant aux Français que les droits qui sont accordés par chaque canton suisse aux ressortissants des autres cantons, il s'ensuit nécessairement que, dans ceux des cantons où le domicile et tout nouvel établissement serait interdit, par les lois du canton souverain, aux individus de la religion de Moïse, les sujets du roi qui professent cette religion ne sauraient se prévaloir de l'article en question pour réclamer une exception à la règle générale du canton suisse. Il est toutefois bien entendu que c'est une conséquence directe de l'article 6 du projet de traité, que ceux d'entre les israélites d'origine française qui se seraient établis sur le territoire de la Confédération sous le régime de l'acte de médiation et en vertu du traité de 1803, continueront à jouir des droits qui leur étaient acquis.

(Brisac : *op. cit.*, pp. 12-13.)

Interpretation by France (1835). Speech by King Louis Philippe to a Deputation from the Consistoire Israélite, November 5, 1835.

Le roi a répondu :

“Oui, dans tous les temps j’ai regardé comme injustes et impolitiques les mesures qui établissaient entre les citoyens d’une même nation des différences de qualifications sociales fondées sur la diversité des croyances religieuses. Comme roi j’ai soutenu ce principe, et je vous ai déjà témoigné plusieurs fois combien j’avais joui qu’il m’eût été réservé de vous en faire l’application. J’espère qu’elle deviendra générale, je le désire beaucoup. Je crois que c’est dans l’intérêt bien entendu de tous les peuples, et la raison doit finir par l’emporter sur les préjugés, comme l’eau qui tombe goutte à goutte finit par percer le plus dur rocher. Tels sont au moins mes désirs et mes espérances ; mais je ne puis me mêler de ce qui se passe dans les autres États, à moins que les intérêts français n’en soient lésés, ainsi que cela est arrivé dans le canton de Bâle campagne. J’avoue que j’ai été bien aise d’avoir cette occasion de bien établir que sous mon règne tous les Français jouissent des mêmes droits et que tous obtiennent la même protection de la part de mon gouvernement. J’espère que mes efforts ne seront pas infructueux et que, dans l’affaire même dont vous m’entretenez, le canton reviendra sur une détermination aussi contraire à nos traités avec la Suisse qu’à l’esprit du siècle où nous vivons. Pour moi, je suis heureux d’avoir donné l’exemple de votre complète émancipation, et je vous remercie de la justice que vous rendez à mes actes et à mes intentions ; je suis bien touché de ce que vous venez de m’exprimer.”

(*Moniteur*, Nov. 12, 1835.)

EXTRACT FROM FRANCO-SWISS TREATY OF ESTABLISHMENT,
June 30, 1864.

“Tous les Français sans distinction de culte seront reçus et traités à l’avenir dans chacun des Cantons suisses sur le même pied que les ressortissants chrétiens des autres Cantons.”

(Brisac : *op. cit.*, p. 53.)

ART. I. ANGLO-SWISS TREATY, September 6, 1855.

Article I. The subjects of Her Britannic Majesty shall be admitted to reside in each of the Swiss Cantons on the same conditions, and on the same footing, as citizens of the other Swiss Cantons. In the same manner, Swiss citizens shall be admitted to reside in all the territories of the United

Kingdom of Great Britain and Ireland on the same conditions, and on the same footing as British subjects.

Consequently, the subjects and citizens of either of the two Contracting Parties shall, provided they conform to the laws of the country, be at liberty, with their families, to enter, establish themselves, reside, and remain in any part of the territories of the other. They may hire and occupy houses and warehouses for the purposes of residence and commerce, and may exercise, conformably to the laws of the country, any profession or business, or carry on trade in articles of lawful commerce by wholesale or retail, and may conduct such trade either in person or by any brokers or agents whom they may think fit to employ, provided such brokers or agents shall themselves also fulfil the conditions necessary for being admitted to reside in the country. They shall not be subject to any taxes, charges or conditions in respect of residence, establishment, passports, licences to reside, establish themselves, or to trade, in respect of permission to exercise their profession, business, trade, or occupation, greater or more onerous than those which are or may be imposed upon the subjects or citizens of the country in which they reside; and they shall, in all these respects, enjoy every right, privilege, and exemption which is or may be accorded to subjects or citizens of the country, or to subjects or citizens of the most favoured nation.

(Bernhardt, "Handbook of Treaties, &c., relating to Commerce," Lond. 1908, pp. 915-916.)

ART. I. AMERICAN-SWISS TREATY, November 6, 1855.

Art. I. "The citizens of the United States of America and the citizens of Switzerland shall be admitted and treated upon a footing of reciprocal equality in the two countries, where such admission and treatment shall not conflict with the constitutional or legal provisions, as well Federal as State and Cantonal, of the contracting parties.

(*Pub. Amer. Jew. Hist. Soc.*, vol. xi. p. 15.)

Interpretation by the United States, 1857. Letter from the Assistant Secretary of State to the Jews of Baltimore.

August 13, 1857.

In compliance with your request, I enclose herewith a copy of the treaty between the United States and Switzerland which was proclaimed in 1855. It was originally concluded in 1850, but was amended with a view to avoid some objections which were made on the very subject to which you refer. In its present form, although it may not remove some

difficulties with reference to those who profess the Israelitish faith, yet I do not see that it discriminates against this class of our citizens in any mode whatever. Undoubtedly in some portions of the Confederation the local laws are less liberal to Israelites than to others, and this is deeply to be regretted; but the Government of the United States has no control over the legislation of a foreign State and can only employ its influence and good offices to relieve the difficulties which such legislation may impose in any given case.

JOHN APPLETON.

(*Ibid.*, p. 23.)

Action by the United States, 1861. Instruction to Mr. Fogg, Minister to Switzerland.

September 14, 1861.

SIR,—Among the important instructions addressed to your predecessor are those concerning the restrictions of certain of the Swiss Cantons against citizens of the United States professing Judaism—a subject which received at Mr. Fay's hands a large share of earnest attention and upon which he addressed the department repeatedly and at much length. It is very desirable that his efforts to procure the removal of the restrictions referred to, which, though not completely successful, have no doubt had much effect in smoothing the way to such a result, should be followed up by you. You will therefore, after having fully acquainted yourself with what Mr. Fay has done in the premises and with the views of the department as expressed to him in the despatches on file in the Legation, take such steps as you may deem judicious and legal to advance the benevolent object in question. It is not doubted that further proper appeals to the justice and liberality of the authorities of the several Cantons whose laws discriminate against Israelitish citizens of the United States, will result in a removal of the odious restrictions and a recognition of the just rights of those citizens.

WILLIAM H. SEWARD,

Secretary of State.

(*Ibid.*, pp. 47-48.)

ART. I. RUSSO-AMERICAN TREATY, *December 18, 1832.*

Article I. There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation.

The inhabitants of their respective states shall mutually have liberty

to enter the ports, places and rivers of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs; and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce.

(“Brit. and For. State Papers,” vol. xx. p. 267.)

Interpretation by United States, 1881. Dispatch of Secretary of State to the American Minister in St. Petersburg.

DEPARTMENT OF STATE, WASHINGTON,

July 29, 1881.

SIR,—. . . The case would clearly be one in which the obligation of a treaty is supreme and where the local law must yield. These questions of the conflict of local law and international treaty stipulations are among the most common which have engaged the attention of publicists, and it is their concurrent judgment that where a treaty creates a privilege for aliens in express terms it cannot be limited by the operations of domestic law without a serious breach of the good faith which governs the intercourse of nations. So long as such a conventional engagement in favor of the citizens in another State exists, the law governing natives in like cases is manifestly inapplicable.

I need hardly enlarge on the point that the Government of the United States concludes its treaties with foreign States for the equal protection of all classes of American citizens. It can make absolutely no discrimination between them, whatever be their origin or creed. So that they abide by the laws at home or abroad it must give them due protection and expect like protection for them. Any unfriendly or discriminatory act against them on the part of a foreign power with which we are at peace would call for our earnest remonstrance, whether a treaty existed or not. The friendliness of our relations with foreign nations is emphasized by the treaties we have concluded with them. We have been moved to enter into such international compacts by considerations of mutual benefit and reciprocity, by the same considerations, in short, which have animated the Russian Government from the time of the noble and tolerant declarations of the Empress Catherine in 1784 to those of the ukase of 1860. We have looked to the spirit rather than to the letter of those engagements, and believed that they should be interpreted in the broadest way; and it is therefore a source

of unfeigned regret to us when a Government, to which we are allied by so many historical ties as to that of Russia, shows a disposition in its dealings with us to take advantage of technicalities, to appeal to the rigid letter and not the reciprocal motive of its international engagements in justification of the expulsion from its territories of peaceable American citizens resorting thither under the good faith of treaties and accused of no wrong-doing or of no violation of the commercial code of the land, but of the simple adherence to the faith of their fathers. . . .

I can readily conceive that statutes bristling with difficulties remain unrepealed in the volumes of the law of Russia as well as of other nations. Even we ourselves have our obsolete "blue laws," and their literal enforcement, if such a thing were possible, might to-day subject a Russian of freethinking proclivities, in Maryland or Delaware, to the penalty of having his tongue bored through with a red-hot iron for blasphemy. Happily the spirit of progress is of higher authority than the letter of outworn laws, and statutory enactments are not so inelastic but that they relax and change with the general advancement of peoples in the path of tolerance.

The simple fact that thousands of Israelites to-day pursue their callings unmolested in St. Petersburg, under the shadow of ancient proscriptive laws, is in itself an eloquent testimony to the principle of progress. And so, too, in Spain, where the persecution and expulsion of the Jews is one of the most notable and deplorable facts in history, and where the edicts of the earlier sovereigns remain unrepealed, we see to-day an offer of protection and assured right of domicile made to Israelites of every race. . . .

I had the honor in my letter of the 20th ultimo to Mr. Bartholomey to acquaint him with the general views of the President in relation to this matter.

I cannot better bring this instruction to a close than by repeating and amplifying those views which the President so firmly holds, and which he so anxiously desires to have recognized and responded to by the Russian Government.

He conceives that the intention of the United States in negotiating the treaty of December 18, 1832, and the distinct and enlightened reciprocal engagements then entered into with the Government of Russia, give us moral ground to expect careful attention to our opinions as to its rational interpretation in the broadest and most impartial sense; that he would deeply regret, in view of the gratifying friendliness of the relations of the two countries which he is so desirous to maintain, to find that this large national sentiment fails to control the present issue, or that a narrow and rigid limitation of the construction possible to the treaty stipulation between the two countries is likely to be adhered to; that if, after a frank

comparison of the views of the two Governments, in the most amicable spirit and with the most earnest desire to reach a mutually agreeable conclusion, the treaty stipulations between the United States and Russia are found insufficient to determine questions of nationality and tolerance of individual faith, or to secure to American citizens in Russia the treatment which Russians receive in the United States, it is simply due to the good relations of the two countries that the stipulations should be made sufficient in these regards; and we can look for no clearer evidence of the good will which Russia professes toward us than a frank declaration of her readiness to come to a distinct agreement with us on these points in an earnest and generous spirit.

I have observed that in your conferences on this subject heretofore with the minister of foreign affairs, as reported in your dispatches, you have on some occasions given discreet expression to the feelings of sympathy and gratification with which this Government and people regard any steps taken in foreign countries in the direction of a liberal tolerance analogous to that which forms the fundamental principle of our national existence. Such expressions were natural on your part and reflected a sentiment which we all feel. But in making the President's views known to the minister I desire that you will carefully subordinate such sentiments to the simple consideration of what is conscientiously believed to be due to our citizens in foreign lands. You will distinctly impress upon him that, regardless of the sovereignty of Russia, we do not submit any suggestions touching the laws and customs of the Empire except where those laws and customs conflict with and destroy the rights of American citizens as assured by treaty obligations.

You can further advise him that we can make no new treaty with Russia nor accept any construction of our existing treaty which shall discriminate against any class of American citizens on account of their religious faith.

I cannot but feel assured that this earnest presentation of the views of this Government will accord with the sense of justice and equity of that of Russia and that the questions at issue will soon find their natural solution in harmony with the noble spirit of tolerance which pervaded the ukase of the Empress Catherine a century ago, and with the statesmanlike declaration of the principle of reciprocity found in the late decree of the Czar Alexander II in 1860.

You may read this dispatch to the minister for foreign affairs, and should he desire a copy you will give it to him.

JAMES G. BLAINE.

("For. Relat. of the U.S.," 1881, pp. 1030 *et seq.*)

DENUNCIATION BY UNITED STATES, 1911.

Resolution of the House of Representatives, December 13, 1911.

Resolved, etc., That the people of the United States assert as a fundamental principle that the rights of its citizens shall not be impaired at home or abroad because of race or religion; that the Government of the United States concludes its treaties for the equal protection of all classes of its citizens, without regard to race or religion; that the Government of the United States will not be a party to any treaty which discriminates, or which by one of the parties thereto is so construed as to discriminate, between American citizens on the ground of race or religion; that the Government of Russia has violated the treaty between the United States and Russia, concluded at St. Petersburg, December 18, 1832, refusing to honor American passports duly issued to American citizens, on account of race and religion; that in the judgment of the Congress the said treaty, for the reasons aforesaid, ought to be terminated at the earliest possible time; that for the aforesaid reasons the said treaty is hereby declared to be terminated and of no further force and effect from the expiration of one year after the date of notification to the Government of Russia of the terms of this resolution, and that to this end the President is hereby charged with the duty of communicating such notice to the Government of Russia.

“Congressional Record,” xlviii. 280, 304-305.)

Resolution of the Senate, December 20, 1911.

Whereas the treaty of commerce and navigation between the United States and Russia concluded on the 18th day of December, 1832, provides in Article XII thereof that it “shall continue in force until the first day of January in the year of our Lord one thousand eight hundred and thirty-nine, and if one year before that day one of the high contracting parties shall not have announced to the other by an official notification its intention to arrest the operation thereof this treaty shall remain obligatory one year beyond that day, and so on until the expiration of the year which shall commence after the date of a similar notification”; and

Whereas on the 17th day of December, 1911, the President caused to be delivered to the Imperial Russian Government by the American Ambassador at St. Petersburg an official notification on behalf of the Government of the United States announcing intention to terminate the operation of this treaty upon the expiration of the year commencing on the 1st day of January 1912; and

NOTES ON THE DIPLOMATIC HISTORY

Whereas said treaty is no longer responsive in various respects to the political principles and commercial needs of the two countries ; and

Whereas the constructions placed thereon by the respective contracting parties differ upon matters of fundamental importance and interest to each ; Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the notice thus given by the President of the United States to the Government of the Empire of Russia to terminate said treaty in accordance with the terms of the Treaty is hereby adopted and ratified.

(*Ibid.*, pp. 493-522.)

ARTS. I AND XI, ANGLO-RUSSIAN TREATY, *January 12, 1859.*

Article I. There shall be between all the dominions and possessions of the two High Contracting Parties, reciprocal freedom of commerce and navigation. The subjects of each of the two Contracting Parties, respectively, shall have liberty freely and securely to come, with their ships and cargoes, to all places, ports and rivers in the dominions and possessions of the other, to which other foreigners are or may be permitted to come ; and shall, throughout the whole extent of the dominions and possessions of the other, enjoy the same rights, privileges, liberties, favours, immunities and exemptions in matters of commerce and navigation, which are or may be enjoyed by native subjects generally.

It is understood, however, that the preceding stipulations in no wise affect the laws, decrees, and special regulations regarding commerce, industry, and police, in vigour in each of the two countries, and generally applicable to all foreigners.

Article XI. The subjects of either of the two High Contracting Parties, conforming themselves to the laws of the country, shall have :—

1. Full liberty, with their families, to enter, travel, or reside in any part of the dominions and possessions of the other Contracting Party.

2. They shall be permitted, in the towns and ports, to hire or possess the houses, warehouses, shops and premises, which may be necessary for them.

3. They may carry on their commerce, either in person or by any agents whom they may think fit to employ.

4. They shall not be subject, in respect of their persons or property, or in respect of passports, licences for residence or establishment, nor in respect of their commerce or industry, to any taxes, whether general or local, nor to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon native subjects.

(Bernhardt : *op. cit.*, pp. 721, 724-725.)

Interpretation by Great Britain, 1862 and 1881. Despatch from Lord Granville to H.B.M. Ambassador at St. Petersburg.

Earl Granville to Sir E. Thornton.

FOREIGN OFFICE,
December 28th, 1881.

SIR,—In my preceding despatch of to-day I have discussed the question whether Mr. Lewisohn, in the arbitrary expulsion from Russia to which he was subjected in September of last year, was treated in accordance with the Russian law as applied to foreign Jews. It now remains to be considered whether Her Majesty's Government are entitled to claim for a British subject of the Jewish faith immunity from the operation of these laws, under the Treaty between Great Britain and Russia of 1859.

It will be seen that Article I of that Treaty secures to foreigners the same rights as are enjoyed by native subjects generally, but the stipulations of that Article are not to affect the laws, decrees, and special regulations regarding commerce, industry and police in vigour in each of the two countries, and applicable to foreigners generally; and again, by Article XI, they are not to be subjected to imposts or obligations of any kind whatever other and greater than those which are or may be imposed on native subjects.

The Treaty is no doubt open to two possible constructions: the one, that it only assures to British subjects of any particular creed the same privileges as are enjoyed by Russian subjects of the same creed; the other that the privileges accorded to British subjects are accorded to all alike, without regard to the religious body to which they belong.

If the latter construction be adopted, British Jews in Russia would be entitled to be relieved from the disabilities to which native Jews are liable, but such a construction would also involve the supposition that Russia had agreed to create a state of things inconsistent with the traditions of her Government, which could not fail to be a source of embarrassment to her.

Upon an examination of the archives of this Department, it has been found that the position of the Jews in Russia formed the subject of a complaint from certain British subjects of that religion at Warsaw in 1862, and that Her Majesty's Government then came to the conclusion that they would not be justified in claiming exemption for British Jews in Russia from disabilities to which their Russian co-religionists were liable by law.

On that occasion Earl Russell informed Lord Napier, then Her Majesty's Ambassador at St. Petersburg, that the effect of the 1st and 11th Articles of the Treaty was to place British subjects on the footing of Russian subjects before the law, each class being alike, and one not more than the other amen-

able to all general laws applicable in like cases; that as Russian subjects, being Jews, incurred certain disabilities, the equality intended and provided for by the Treaty was not infringed by British subjects who were Jews and resident in Russia sharing the same disabilities. The despatch went on to say that it would seem to be beyond the scope and general intent of a Treaty of Commerce and Navigation if it were to be held to repeal in the persons of foreigners the legal disabilities to which, for reasons of general State policy, particular classes of individual natives of the country had been subjected, and it was hardly to be supposed that such an interpretation would be accepted or adopted by an independent Government as against itself.

Her Majesty's Government feel that they cannot now insist upon a construction of the Treaty at variance with that which was placed upon it in 1862.

I am, &c.,

GRANVILLE.

("Parl. Paper, Russia," No. 4 (1881), p. 21.)

Interpretation by Great Britain, 1891. Letter from the Marquis of Salisbury to Sir Julian Goldsmid.

FOREIGN OFFICE,

January 29th, 1891.

SIR,—With reference to the letter from this office of the 16th ultimo and to previous correspondence respecting the position of British Jews in Russia, I am directed by the Marquis of Salisbury to inform you that the question has been fully considered in communication with the Law Officers of the Crown.

Her Majesty's Government are advised that, so long as the disabilities to which British and Russian Jews are subjected are substantially the same, it is not open to Her Majesty's Government to depart from the interpretation of Treaties laid down in Lord Granville's despatch of December 28, 1881.

You will find a copy of this despatch on page 21 of the Parliamentary Paper "Russia No. 4, 1881."

I am, Sir,

Your most obedient, humble Servant,

T. H. SANDERSON.

SIR J. GOLDSMID, BART., M.P.

Interpretation by Great Britain, 1912. Letter from Sir Edward Grey to the Conjoint Committee.

FOREIGN OFFICE,

October 1st, 1912.

GENTLEMEN,—Secretary Sir E. Grey has had under his careful consideration your Memorial of August 2nd last on the subject of the grievances caused

by the restrictions imposed in Russia on British subjects of the Jewish faith in regard to the interpretation of Articles I and XI of the Treaty of Commerce between this country and Russia of January 12th, 1859.

I am to inform you that, inasmuch as the construction which should be placed on the Articles of the Treaty was carefully considered by His Majesty's Government in 1862, and again in 1881, His Majesty's Government would not now be able to reverse the decision then arrived at, and that an attempt to do so, or to interpret and utilise the Treaty in a sense contrary to the spirit of that decision, would only lead to its termination by formal notice as provided for by the Treaty at the end of twelve months. Such result would in no way advance the interests of those whom you represent, and would in other respects be disadvantageous to British interests. Sir E. Grey, therefore, regrets that he is unable to approach the Russian Government in the sense desired.

I am, Gentlemen,

Your most obedient humble Servant,

EYRE A. CROWE.

THE CONJOINT JEWISH COMMITTEE,
19 FINSBURY CIRCUS, E.C.

(" Annual Report, Board of Deputies, 1912," pp. 81-82.)

ART. XIII. ANGLO-MOORISH TREATY, *December 9, 1856.*

Article XIII. All British subjects, whether Mahometans, Jews, or Christians, shall alike enjoy all the rights and privileges granted by the present Treaty and the Convention of Commerce and Navigation which has also been concluded this day, or which shall at any time be granted to the most favoured nation.

(Bernhardt: *op. cit.*, p. 561.)

(b) CONSULAR PROTECTION.

Besides natural born and naturalised Jewish subjects of intervening States, there is another class of Jews on whose behalf protective interventions have been exercised on grounds of right. These are native Jews who for one reason or another have acquired Consular Protection under the Capitulations and other extraterritorial privileges enjoyed by foreign States in Oriental and semi-barbarous countries. The origin of this protection has already been briefly described.⁸⁶

⁸⁶ *Supra*, pp. 3-4.

The exact national status of the persons on whom it is conferred is not easy to define, but in the Foreign Jurisdiction Orders in Council they are assimilated with "British subjects" so far as British extraterritorial jurisdiction is concerned,⁸⁷ and this roughly has been the practice of all States exercising Consular Protection.

The system lent itself easily to abuse and fraud, chiefly because extraterritoriality in the countries in which it was exercised generally carried with it immunity not only from arbitrary exactions but also from ordinary taxation. Moreover, in the case of native Jews who often suffered from Moslem fanaticism—chiefly in Morocco and Persia—Consular Protection was exercised from motives of humanity, and for that purpose more or less fictitious qualifications were found for them. We get a curious glimpse of the loose way in which Consular Protection was granted from the Anglo-Turkish Treaty of 1809. Under the Capitulations (Arts. LIX and LX) native interpreters and servants of the Embassy were free of taxes and indeed of Turkish jurisdiction generally. By the Treaty of 1809 (Art. IX) it was agreed that in future the *berats* of interpreters should not issue to "artizans, shopkeepers, bankers and other persons not acting as interpreters."⁸⁸ Owing to this stipulation and the sensitiveness of the Porte in regard to its jurisdiction over its own subjects, irregular Protections were discontinued in Turkey. This, however, was not a source of serious grievance to Jews, as on the whole they have been extremely well treated in the Ottoman Empire.

It is not generally known—and the fact may prove of peculiar importance at the present moment—that all Russian Jews settled in Palestine are, on certain conditions, entitled to claim British protection and so much of the status of British subjects as this privilege implies. In 1849, when there was a considerable influx of Russian Jews into Jerusalem, the Russian Government, having no Consul in the city and for other reasons, desired to get rid of the responsibility of protecting them. Accordingly an arrangement was arrived at

⁸⁷ Piggott : *Extraterritoriality* (Lond. 1907), pp. 67–68.

⁸⁸ Bernhardt : *op. cit.*, pp. 947, 957.

between the British and Russian authorities permitting such Jews, on receiving papers of dismissal from their Russian allegiance from the Vice-Consul at Jaffa, to register at the British Consulate as British protégés. A large number availed themselves of the privilege. There is nothing to show that the Agreement of 1849 was ever cancelled.⁸⁹

In Morocco the Consular Protection System affected Jews more closely than in Turkey. It was for many years their sole protection against the oppressions of the Bashaws and the cruel fanaticism of the people, and on this ground there was much to be said for its so-called abuses and irregularities. The right of protection seems to have been derived from a very loosely worded article of the Anglo-Moorish Treaty of 1728, granting immunity from taxation to all the native servants of British subjects, whether Moors or Jews.⁹⁰ This Treaty was abrogated by the general Treaty of 1856 (Article XXXVIII) and a more definite scope was given to British Consular jurisdiction (Article III), but in a Treaty of Commerce signed on the same day, it was expressly stipulated (Article IV) that native agents employed by British subjects "shall be treated and regarded as other subjects of the Moorish dominions."⁹¹ Nevertheless, the old abuses continued in virtue of the "Most favoured nation" clause,⁹² and a very large number of native Jews received protection at the hands of the Consuls of all the Powers, partly on account of their usefulness and partly on account of the insecurity of their lives and property under the Moorish authorities.

It was, however, difficult to restrain Moorish fanaticism, and the Consuls were frequently called upon to protect their Jewish protégés or to avenge outrages of which they became victims.⁹³

⁸⁹ *Infra*, p. 86. Further details will be found in Mr. Finn's *Records from Jerusalem Consular Chronicles* (Lond. 1878), i. 112-114.

⁹⁰ *Infra*, p. 87.

⁹¹ *Infra*, p. 87.

⁹² *Memoir of Sir John Drummond Hay* (Lond. 1896), pp. 322-323. See also stipulations of French Treaty (*infra*, p. 88).

⁹³ For details of these cases see Leven: *Cinquante Ans d'Histoire*, pp. 158 *et seq.* Annual Reports of the Anglo-Jewish Association.

DOCUMENTS.

PROTECTION OF RUSSIAN JEWS IN PALESTINE.—THE AGREEMENT OF 1849.

*Earl Russell to the Jewish Board of Deputies.*FOREIGN OFFICE,
February 1st, 1864.

SIR,—I am directed by Earl Russell to acknowledge the receipt of your two letters of the 29th of December and 22nd inst., in the former of which you enclose a Memorial to His Lordship from the Jews of Safed and Tiberias, praying that they may again be placed under British protection, of which they assert that they were deprived by Mr. Consul Finn under the circumstances stated by them.

I am now to state to you in reply for the information of the Memorialists that Her Majesty's Government have every disposition to give effect to the arrangements which were made with the Russian Consul General in 1849, namely to afford British protection to those Jews who, having declined to return to Russia, have divested themselves of their Russian Nationality, and so forfeited the protection to which *primâ facie* they were entitled to look. But I am to add that it must be distinctly understood that this can only be done by the production on the part of the individual seeking British protection of the formal letter of Dismissal from the Russian Consulate, shewing that he has been cast off from Russian protection, and would thus be left otherwise unprotected. If he can produce no such letter, Her Majesty's Consular Officers will not be entitled to grant to such individual British protection.

Mr. Finn acted erroneously in originally supposing that British protection could be granted to Russian Jews without the production of formal letters of dismissal, and it was in consequence of instructions from Her Majesty's Government that he withdrew British Consular protection from those persons who could not produce such letters. Lord Russell, however, is of opinion that Mr. Finn has shewn satisfactorily that his good offices have nevertheless not unfrequently been extended to the Jewish Communities at Safed and Tiberias, and that they have no just reason to complain of him.

A delay has been occasioned in answering your first letter by the necessity of communicating with Mr. Finn and of making other inquiries with regard to the statements contained in the Memorial.

I am, Sir,
Your most obedient humble Servant,
I. HAMMOND.

J. M. MONTEFIORE, Esq.,
4 Gt. STANHOPE ST., MAYFAIR.

(Minute Books of Board of Deputies, 1864.)

ART. III. ANGLO-MOORISH TREATY *of January 14, 1727-8.*

III. That the Menial Servants of his Britannic Majesty's Subjects, the Natives of the Country, either Moors or Jews, be exempt from Taxes of all kinds.

("A General Collection of Treaties" (1732), iv. 458.)

ART. III. ANGLO-MOORISH GENERAL TREATY *of December 9, 1856.*
EXTRACT.

Article III. . . . The British Chargé d'Affaires shall be at liberty to choose his own interpreters and servants, either from the Mussulmans or others, and neither his interpreters nor servants shall be compelled to pay any capitation tax, forced contribution, or other similar or corresponding charge. With respect to the Consuls or Vice-Consuls who shall reside at the ports under the orders of the said Chargé d'Affaires, they shall be at liberty to choose one interpreter, one guard, and two servants, either from the Mussulmans or others; and neither the interpreter, nor the guard, nor their servants, shall be compelled to pay any capitation tax, forced contribution, or other similar or corresponding charge. If the said Chargé d'Affaires should appoint a subject of the Sultan of Morocco as Vice-Consul at a Moorish port, the said Vice-Consul, and those members of his family who may dwell within his house, shall be respected, and exempted from the payment of any capitation tax, or other similar or corresponding charge; but the said Vice-Consul shall not take under his protection any subject of the Sultan of Morocco except the members of his family dwelling under his roof.

(Bernhardt: *op. cit.*, p. 556.)

ART. IV. ANGLO-MOORISH TREATY OF COMMERCE *of December 9, 1856.*
EXTRACT.

Article IV. The subjects of Her Britannic Majesty within the dominions of His Majesty the Sultan shall be free to manage their own affairs themselves, or to commit those affairs to the management of any persons whom they may appoint as their broker, factor or agent; nor shall such British subjects be restrained in their choice of persons to act in such capacities; nor shall they be called upon to pay any salary or remuneration to any person whom they shall not choose to employ; but those persons who shall be thus employed, and who are subjects of the Sultan of Morocco, shall be treated and regarded as other subjects of the Moorish dominions.

(*Ibid.* p. 573.)

FRANCO-MOORISH "RÈGLEMENT" REGARDING PROTECTION, *August 19, 1863.*
EXTRACTS.

La protection est individuelle et temporaire.

Elle ne s'applique pas en général aux parents de l'individu protégé.

Elle ne peut s'appliquer à sa famille, c'est-à-dire à la femme et aux enfants demeurant sous le même toit.

Elle est tout au plus viagère, jamais héréditaire, sauf la seule exception admise en faveur de la famille Benchimol, qui, de père en fils, a fourni et fournit des censeurs interprètes au port de Tanger.

Les protégés se divisent en deux catégories :

La première catégorie comprend les indigènes employés par la Légation et par les différentes Autorités consulaires.

La seconde catégorie se compose des facteurs, courtiers ou agents indigènes employés par les négociants français pour leurs affaires de commerce. . . .

Le nombre des courtiers indigènes jouissant de la protection française est limité à deux par maison de commerce. Par exception, les maisons de commerce qui ont des comptoirs dans différents ports pourront avoir des courtiers attachés à chacun de ces comptoirs et jouissant à ce titre de la protection française. . . .

Il est entendu, que les cultivateurs, gardiens de troupeaux ou autres paysans indigènes au service des Français ne pourront être l'objet de poursuites judiciaires sans que l'Autorité consulaire compétente en soit immédiatement informée, afin que celle-ci puisse sauvegarder l'intérêt de ses nationaux. . . .

(De Card: "Les Traités entre la France et le Maroc" (Paris, 1898), pp. 221-22.)

(c) THE CONFERENCES OF MADRID (1800) AND ALGECIRAS (1906).

Through the efforts of the British Minister at Tangier, Sir John Drummond Hay, who had negotiated the Treaties of 1856 and who was strongly opposed to the abuses of the Protection system, a Conference of the Powers and other interested States was held at Madrid in 1880 with the object of introducing reforms.⁹⁴ A new Convention, containing a few fresh restrictions, was agreed upon, but, as a matter of fact, the Conference was a failure, owing to the reluctance of France to abandon a system which gave her an advantage against Great Britain in promoting her influence in Morocco.⁹⁵ For obvious

⁹⁴ *Memoir of Sir J. D. Hay*, pp. 321-323.

⁹⁵ *Ibid.* p. 323.

reasons, Jewish influence was also largely used to the same end. The Jewish factor of the problem came out very prominently in the debates of the Conference. All the protégés referred to by name were Jews, such as the families of Benchimol, Moses Nahon, David Buzaglo, and Isaac Toledano.⁹⁶ One of the few reforms carried out by the Conference was the abolition of hereditary protection. An exception was, however, made in the case of the Jewish family of Benchimol, whose rights in this respect had been guaranteed in the Convention of 1863 with France, and a special reservation to this effect was inserted in the new Treaty.⁹⁷

The Conference also dealt with the general questions of Religious Liberty in Morocco and of the treatment of native Jews. In 1864 Sir Moses Montefiore, as President of the Jewish Board of Deputies and with the support of the British Government, had undertaken a mission to Morocco in order to secure an improvement in the treatment of the non-Mohammedan population, and more particularly the Jews. He succeeded in obtaining from the Sultan a remarkable Edict assuring to the Jews a perfect equality of treatment with all the other subjects of the Sultan.⁹⁸ This Edict had not been observed, and, at the instance of the Pope, the Madrid Conference adopted a Declaration calling upon the Shereefian Government to give effect to it and at the same time to assure Religious Liberty to all its subjects. The result was to extract from the Sultan a formal reaffirmation of the Montefiore Edict.⁹⁹

A similar course was pursued by the Conference which met at Algenciras in 1906 to consider the Moorish question in its wider political aspects. The intervening quarter of a century had been as barren of reforms as the period which elapsed between the granting of the Edict of 1864 and the meeting of the Madrid Conference. The maltreatment of the Jews had continued, and had been the subject of frequent complaints by the Alliance Israélite, the Anglo-Jewish Association, and the American Jewish Committee, and of remon-

⁹⁶ *Infra*, pp. 90-91.

⁹⁷ *Infra*, p. 93.

⁹⁸ *Infra*, p. 92. See also Wolf: *Sir Moses Montefiore* (Lond. 1884), pp. 213-232, and Loewe: *Diaries of Sir M. Montefiore*, ii. 148-153.

⁹⁹ *Infra*, p. 97.

stances by their respective Governments. Accordingly at the instance of the United States Government, the question was brought before the Algenciras Conference, and, at the sitting of that body on April 2, 1906, a resolution was adopted, again calling upon the Sultan of Morocco to see "that the Jews of his Empire and all his subjects, without distinction of faith, were treated with justice and equality."¹⁰⁰

No steps, however, were taken to enforce this resolution, and it was not even made a treaty obligation. That, however, was of little consequence, for, very shortly after, the Moorish Empire virtually disappeared, and a French Protectorate was proclaimed. The Jews of Morocco are now in the same situation as their brethren in Algiers and Tunis, which, however, is not to say that it is entirely satisfactory.

DOCUMENTS.

EXTRACTS FROM PROTOCOLS OF THE MADRID CONFERENCE (1880).

Protocole No. 3.—Séance du 20 Mai, 1880.

Sur la question de la protection héréditaire, le Plénipotentiaire de France rappelle que la Convention de 1863 accorde formellement cette protection à la famille Benchimol. Les raisons qui ont motivé cette exception ont été dûment appréciées à cette époque par le Gouvernement Marocain; elles ont conservé toute leur force, et il est impossible au Gouvernement Français d'abandonner une famille qui jouit depuis 17 ans de la plus juste considération. Il demande le maintien de cette exception si légitime.

Le Plénipotentiaire du Portugal, tout en maintenant dans toute son étendue le droit au traitement de la nation la plus favorisée, reconnu toujours au Portugal et récemment encore lors des Ambassades spéciales envoyées par sa Majesté Chérifienne en 1875 et 1877, admet que la France puisse alléguer des motifs spéciaux en faveur d'une exception qui, selon lui, n'invalide pas le principe. Il accepte donc sans réserve que la protection ne soit pas héréditaire, avec l'exception unique établi nominativement dans la Convention de 1863. Seulement pour le cas où le Gouvernement Marocain accorderait par la suite d'autres exceptions de cette nature, il réserverait le droit du Gouvernement Portugais de réclamer une exception analogue.

Pareille réserve est faite par les autres Plénipotentiaires.

"La protection n'est point héréditaire. Une seule exception est maintenue en faveur de la famille Benchimol, comme étant établie dans la

¹⁰⁰ *Infra*, p. 98.

Convention de 1863 ; mais elle ne saurait créer un précédent. Cependant si le Souverain du Maroc accordait une autre exception, toutes les Puissances représentées à la Conférence auraient le droit de réclamer une exception pareille."

Protocole No. 11.—Séance du 24 Juin, 1880.

Le Plénipotentiaire d'Italie demande la parole, et s'exprime en ces termes :—

" . . . L'Italie a toujours maintenu inaltérable son droit consuetudinaire sans jamais en abuser. En effet, en examinant le chiffre de 108, auquel montent ses protégés, on trouvera que 11 seulement sont protégés en vertu du droit consuetudinaire.

"Six sont d'anciens Vice-Consuls et interprètes des Etats Italiens composant actuellement le Royaume d'Italie. Le nombre de ceux qui ont rendu ainsi des services à l'Italie est de six et non d'un seul (M. Moses Nahon), comme M. le Ministre des Affaires Etrangères du Maroc avait cru pouvoir l'affirmer dans la séance du 19 Juillet, 1879, des Conférences de Tanger.

"La veuve David Buzaglo et ses deux fils composent la famille d'un Agent Diplomatique Italien, et jouisse à ce titre de la protection.

"La veuve Isaac Toldano et 8 autres personnes appartiennent à la famille de Joseph Toldano, Interprète de la Légation d'Italie, famille qui jusqu'à présent a joui de la protection héréditaire comme la famille Benchimol, protégée par la France."

(" Brit. and For. State Papers," lxxi. 825-826, 872, 873-874.)

ART. VI. TREATY OF MADRID, *July 6, 1880.*¹⁰¹

VI. La protection s'étend sur la famille du protégé. Sa demeure est respectée.

Il est entendu que la famille ne se compose que de la femme, des enfants, et des parents mineurs qui habitent sous le même toit.

La protection n'est pas héréditaire. Une seule exception, déjà établie par la Convention de 1863, et qui ne saurait créer un précédent, est maintenue en faveur de la famille Benchimol.

Cependant, si le Sultan du Maroc accordait une autre exception, chacune des Puissances Contractantes aurait le droit de réclamer une concession semblable.

(*Ibid.*, pp. 641-642.)

¹⁰¹ Cf. *supra*, p. 89.

THE MONTEFIORE EDICT, 1864.

In the Name of God, the Merciful and Gracious. There is no power but in God, the High and Mighty.

Be it known by this our Royal Edict—may God exalt and bless its purport and elevate the same to the high heavens, as he does the sun and moon!—that it is our command, that all Jews residing within our dominions, be the condition in which the Almighty God has placed them whatever it may, shall be treated by our Governors, Administrators, and all other subjects, in manner conformable with the evenly balanced scales of Justice, and that in the administration of the Courts of Law they (the Jews) shall occupy a position of perfect equality with all other people; so that not even a fractional portion of the smallest imaginable particle of injustice shall reach any of them, nor shall they be subjected to anything of an objectionable nature. Neither they (the Authorities) nor any one else shall do them (the Jews) wrong, whether to their persons or to their property. Nor shall any tradesman among them, or artizan, be compelled to work against his will. The work of everyone shall be duly recompensed, for injustice here is injustice in Heaven, and we cannot countenance it in any matter affecting either their (the Jews') rights or the rights of others, our own dignity being itself opposed to such a course. All persons in our regard have an equal claim to justice; and if any person should wrong or injure one of them (the Jews), we will, with the help of God, punish him.

The commands hereinbefore set forth had been given and made known before now; but we repeat them, and add force to them, in order that they may be more clearly understood, and more strictly carried into effect, as well as serve for a warning to such as may be evilly disposed towards them (the Jews), and that the Jews shall thus enjoy for the future more security than heretofore, whilst the fear to injure them shall be greatly increased.

This Decree, blessed by God, is promulgated on the 26th of Shaban, 1280 (15 February 1864). Peace!

(Loewe, "Diaries of Sir Moses and Lady Montefiore," vol. ii. p. 153.)

FURTHER EXTRACT FROM PROTOCOLS OF THE MADRID
CONFERENCE (1880).

Protocole No. 12.—Séance du 26 Juin, 1880.

Le Président observe que la Conférence, ayant accompli, et au delà, la tâche qu'elle s'était proposée, est à la veille de se dissoudre. Mais il doit porter à la connaissance de ses membres, avant qu'ils ne se séparent, une

communication importante qui a été adressée par le Saint-Siège au Gouvernement de Sa Majesté Catholique.

M. Canovas del Castillo donne lecture de la production suivante d'une lettre, en date du 4 Mai, 1880, qu'il a reçue de son Eminence le Cardinal Nina :

" EXCELLENCE,—Le Saint-Père, obéissant au devoirs de sa mission apostolique, ne peut que mettre à profit toutes les occasions qui se présentent de veiller aux intérêts du Catholicisme, sur n'importe quel point du globe. Ayant appris que dans le courant de ce mois un Congrès Diplomatique doit se réunir sous votre présidence pour s'occuper des affaires du Maroc, Sa Sainteté, tout en reconnaissant que parmi les questions qui seront soumises à la délibération de la Conférence, celle qui se rapporte à la liberté religieuse dans l'Empire Marocain n'a pas été particulièrement désignée, croit cependant que rien n'interdirait aux Plénipotentiaires réunis à Madrid de porter leur attention sur un sujet si important pour le bien-être des habitants du Maroc, quand même il ne serait considéré qu'au point de vue matériel.

" Il n'est point douteux que, de même qu'au dernier Congrès de Berlin les appels faits par mon illustre prédécesseur, le Cardinal Franchi, aux Représentants de la France et de l'Autriche, MM. Waddington et Andrassy, eurent pour résultat de faire accueillir et voter, avec l'approbation générale, les demandes de Sa Sainteté relatives à la liberté de la religion Catholique pour les sujets de la Sublime Porte et des États qui l'avoisinent, de même la proposition que je fais en ce moment trouvera un accueil non moins favorable de la part des dignes Représentants à la veille de se réunir dans la capitale d'une nation si dévouée au Saint-Siège, et liée par tant d'intérêts à l'Empire du Maroc. D'autre part, il n'est pas permis de présumer que le Gouvernement Marocain, uni par un lien si étroit au Représentant suprême de l'Islamisme, puisse se refuser à suivre l'exemple qui lui a été offert par l'adhésion de l'Empereur des Ottomans aux Articles stipulés dans le Congrès de Berlin. lorsque la Conférence qui va se réunir lui proposera d'adopter une résolution analogue.

" Obéissant à ces considérations, le Saint-Père m'a chargé de m'adresser à votre Excellence, digne Président de l'Assemblée, et de faire appel, en son nom Pontifical, à ses sentiments comme Catholique et comme Espagnol, afin quelle veuille bien se charger de proposer et de défendre au sein du Congrès la proposition sus-indiquée, qui porte que les sujets du Sultan, ainsi que les étrangers, jouiront au Maroc du libre exercice du culte Catholique, sans que par ce motif ils aient à souffrir tort ou préjudice dans leurs droits civils ou politiques.

" Le Saint-Père ne méconnaît point les obstacles qu'oppose l'état actuel du Maroc à la réalisation de cette liberté ; mais ces obstacles, loin

de décourager, doivent stimuler les cœurs généreux qui n'envisagent que la grandeur du but à atteindre.

"Du reste, une fois que le Gouvernement Marocain aura accepté le principe en question, et pris vis-à-vis des Puissances étrangères l'engagement de s'y conformer, si ces Puissances, d'accord avec l'Espagne, dont les relations avec le Maroc présentent un caractère tout spécial, voulaient prendre une attitude semblable à celle qu'elles ont adoptée en Orient, on pourrait avec raison espérer que le progrès de la civilisation amèneraient bientôt, par des voies pacifiques, le libre exercice du culte Catholique dans ces régions Africaines.

"En me conformant aux ordres de l'auguste Pontife, je dois en même temps vous faire savoir que le Saint-Père est animé d'une conviction intime que vous répondrez à son appel paternel et que les Représentants des autres Puissances seconderont vos efforts, en accueillant avec faveur une demande conforme aux principes aujourd'hui admis du droit public international.

"Le Saint-Père croit également qu'en agissant ainsi, votre Excellence répondra aux sentiments bien connus de Sa Majesté le Roi, son auguste Souverain, en faveur de notre sainte religion.

Je saisis, &c.,

"L. CARD. NINA.

"A son Excellence M. CÁNOVAS DEL CASTILLO."

M. Cánovas del Castillo a eu l'honneur de répondre à Mgr. le Nonce Apostolique à Madrid, avec lequel il s'est entretenu à ce sujet, que le Plénipotentiaire d'Espagne était prêt à présenter, et à appuyer au sein de la Conférence, la proposition du Saint-Siège, aussitôt qu'il serait avéré que les Représentants des autres Puissances pourraient consentir à traiter des questions en dehors de celles qui avaient motivé leur réunion ; il devrait, en particulier, consulter son collègue le Représentant de la Grande-Bretagne, dont le Gouvernement a pris l'initiative de la convocation des Plénipotentiaires, sur l'opportunité qu'il y aurait à saisir la Conférence de cette proposition. M. Cánovas a ajouté que, si la Conférence admettait en principe la possibilité de traiter des questions étrangères au but déterminé qu'elle s'était proposé, le Plénipotentiaire d'Espagne tiendrait à honneur de remplir la mission que le Saint-Siège daignait lui confier, et qu'il était persuadé que la communication du Saint-Père serait accueillie, en ce cas, avec toute la déférence due à sa haute origine.

Il a rappelé en même temps que le Traité de 1861 assure la liberté religieuse aux Catholiques Espagnols au Maroc, et que d'autre part le Traité Anglais de 1856 stipulait également, pour les sujets Britanniques, le libre exercice de leur culte.

Ayant acquis postérieurement la conviction que les Plénipotentiaires

sont disposés à examiner cette question, le Président estime que la Conférence devra faire une déclaration érigeant en règle générale le principe que le Maroc a déjà admis par des Traités.

Le Plénipotentiaire d'Autriche-Hongrie prend alors la parole, et dit que le Gouvernement de Sa Majesté Impériale et Royale Apostolique, à la suite d'une démarche analogue du Saint-Siège, a pu s'assurer, de son côté que les autres Cabinets seraient, en effet, disposés à se joindre à un vœu comme celui dont vient de prendre l'initiative le Président de la Conférence, pourvu que ce vœu fut exprimé en faveur de tous les habitants non-Musulmans du Maroc, et que la Conférence recommandât en même temps à la sagesse du Sultan du Maroc l'abolition des incapacités qui pèsent encore sur certaines classes de ses sujets en raison de leurs croyances.

C'est dans ce sens, et pour donner une forme plus précise à ce vœu, que M. le Comte Ludolf a été chargé de préparer le projet d'Adresse au Souverain du Maroc qu'il a l'honneur de soumettre à la Conférence.

Le Plénipotentiaire d'Autriche-Hongrie donne lecture du document en ces termes :—

“ La Conférence, au moment de se dissoudre, informée par son Président de la demande exprimée en faveur de l'Église Catholique par Sa Sainteté le Souverain Pontife, dans le lettre dont lecture vient d'être faite, demande de son côté que le libre exercice de tous les cultes soit reconnu au Maroc.

“ La Conférence, d'autant plus convaincu que ce vœu trouvera un accueil favorable auprès de Sa Majesté Chérifienne que l'illustre Souverain du Maroc a déjà donné une preuve manifeste de sa tolérance et de sa sollicitude pour le bien-être de ses sujets non-Musulmans, en confirmant en 1874 le Décret accordé par Sa Majesté le Sultan Sidi Mohammed, sous le 26 Chaban de 1280 (Février 1864) à Sir Moses Montefiore, Décret qui proclame que tous les sujets de l'Empire du Maroc doivent avoir le même rang devant la loi : que par conséquent les Juifs du Maroc doivent être traités conformément à la justice et à l'équité, et qu'aucune violence ne doit être exercée à l'égard de leurs personnes ni de leurs biens.

“ A la suite de ce Décret, bien des lois humiliantes, édictées contre les non-Musulmans dans des temps antérieurs, ont été mises hors de pratique, et le sort des races non-Musulmans au Maroc est devenu plus supportable.

“ Toutefois, ces lois ne sont pas encore toutes formellement révoquées, et quelques-unes même continuent à être en vigueur dans plus d'un endroit de l'intérieur de l'Empire. De même, le libre exercice de leurs cultes n'est pas encore accordé d'une manière légale aux sujets non-Musulmans de Sa Majesté Chérifienne, et beaucoup de restrictions existent encore pour ces derniers qui sont contraires à l'esprit du Décret du 26 Chaban, 1280, et à cette règle si élémentaire et si universellement respectée, que les sujets d'un même pays, de quelque race ou de quelque religion qu'ils soient, des qu'ils accomplissent

fidèlement leurs devoirs envers le Souverain, doivent jouir d'une parfaite identité de droits et d'une complète égalité devant la loi.

"Le Sultan Abdul Medjid, Empereur des Ottomans, à déjà, en 1839, par le Hatti-Chérif de Gulhané, reconnu spontanément et inscrit dans la législation de son pays ce même principe, qui a été développé et consacré depuis par ses successeurs, en 1856 et dernièrement encore en 1878, de façon qu'on ne saurait douter qu'il ne se laisse parfaitement concilier avec la loi Mahométane.

"Quoique persuadée que l'illustre Souverain du Maroc est animé, non moins que le Sultan de la Turquie, d'intentions bienveillantes envers ses sujets non-Musulmans, la Conférence croirait manquer à un devoir si elle ne témoignait le vif et profond intérêt qu'elle prend à la prompte amélioration de leur sort. A cet effet, la Conférence, au nom des Hautes Puissances représentées dans son sein, fait appel à Sa Majesté Chérifienne afin que, fidèle à ses sentiments de justice et de générosité, elle manifeste sa ferme volonté—

"1. De faire respecter dans ses États le principe que tous ceux qui y habitent et qui y habiteront à l'avenir pourront professer et exercer sans entraves leurs cultes ;

"2. De prescrire à son Gouvernement, comme base immuable de la législation du Maroc, la maxime, déjà adoptée dans le Décret du 26 Chaban, 1280, et d'après laquelle ni la religion ni la race ne pourront jamais être un motif pour établir une différence dans le traitement par et devant la loi entre ses sujets Musulmans et non-Musulmans, ni servir de prétexte pour imposer à ces derniers des humiliations, pour les priver d'un droit civil quelconque, ou pour les empêcher d'exercer librement toutes les professions et industries qui sont permises aux sujets Musulmans de l'Empire.

"Une pareille manifestation non seulement honorerait le règne de Sa Majesté Chérifienne, mais inaugurerait aussi pour ses États une ère nouvelle de prospérité.

"Les Soussignés, en déposant le présent acte entre les mains de son Excellence Cid Mohammed Vargas, prient M. le Plénipotentiaire du Maroc de le soumettre à Sa Majesté Chérifienne, qui ne lui refusera certes pas la sérieuse attention que mérite un vœu exprimé au nom des Puissances que les Soussignés ont l'honneur de représenter.

"*Madrid, le 26 Juin, 1880.*"

Ce texte est approuvé par les Plénipotentiaires, à l'exception du Représentant de Sa Majesté Chérifienne, qui ne peut que s'engager à porter à la connaissance de son Souverain les vœux que les Plénipotentiaires viennent d'exprimer au nom de leurs Gouvernements respectifs.

Cid Mohammed Vargas croit cependant devoir rappeler qu'au Maroc les Musulmans, les Chrétiens, et les Juifs suivent leur religion, sans qu'il y soit mis d'empêchement ni d'obstacle.

Le Plénipotentiaire du Maroc n'a pas d'instructions de son Souverain qui lui permettent de traiter cette question ou toute autre qui, comme elle, ne se rattacherait pas directement à l'objet de sa mission à Madrid. Néanmoins, en vue de l'Adresse que vient d'adopter la Conférence, il croit devoir lui communiquer une lettre qu'il a reçu de Sa Majesté le Sultan Muley-el-Hassan, et qui a trait aux Juifs ses sujets. Il en donne lecture en ces termes :—

“ Louange à Dieu unique ! Que la bénédiction de Dieu soit sur Mahomet, notre Seigneur et Maître, sur sa famille, et ses compagnons !

“ A notre estimé serviteur, le Taleb Mohammed Vargas. Que Dieu te soit propice, et que la paix soit sur toi, ainsi que la bénédiction de Dieu Très Haut et sa miséricorde.

“ Et puis :—

“ Il est parvenu à notre connaissance que certains Juifs de nos sujets se sont plaints à plusieurs reprises à leurs frères résidant en Europe et aux Représentants étrangers à Tanger, de ce qu'ils ne parviennent pas à obtenir justice dans leurs réclamations relatives à meurtres, vols, &c. Ils prétendent que les Gouverneurs montrent de l'indifférence à leur faire avoir satisfaction des personnes qui les attaquent, et que leurs demandes n'arrivent jamais à notre Majesté Chérifienne, si ce n'est par l'entremise de personnes (les Juifs résidant en Europe et les Représentants étrangers).

“ Notre volonté Chérifienne est qu'ils obtiennent justice sans l'intervention des Puissances ni des Représentants, parce qu'ils sont nos sujets et nos tributaires, ayant par là les mêmes droits que les Musulmans devant nous, et tous abus contre eux étant défendu par notre religion.

“ C'est pourquoi nous t'ordonnons d'accepter la réclamation de tout Juif qui se plaindra de ne pas obtenir justice d'un Gouverneur, et de nous en donner connaissance lorsque tu ne trouveras pas le moyen d'y faire droit.

“ Nous avons envoyé des ordres en ce sens aux Gouverneurs des villes, des ports, et de la campagne, afin qu'ils en donnent connaissance aux Juifs, et en même temps nous les avons prévenus que si quelqu'un d'eux s'oppose ou met des difficultés à ce que la plainte d'un Juif parvienne à toi, nous le punirons très sévèrement.

“ Nous t'ordonnons de traiter leurs affaires avec toute justice et de ne rien nous cacher sur l'arbitraire des Gouverneurs à leur égard, car tous les hommes sont égaux pour nous en matière de justice.

“ *Le 22 Joumadi premier, an 1297.*”

Le Président donnant acte au Représentant du Maroc de cette communication, constate, au nom de tous les Plénipotentiaires, la vive satisfaction avec laquelle la Conférence accueille les déclarations qui viennent de lui être faites. Les Plénipotentiaires voient dans le principe, qu'elles établissent, d'un appel au Ministre des Affaires Étrangères, à la fois une preuve des senti-

ments de justice qui animent Sa Majesté Chérifienne à l'égard de ses sujets Israélites, et l'annonce du prompt accomplissement des vœux exprimés par la Conférence.

(“ British and Foreign State Papers,” vol. lxxi. pp. 881-887.)

EXTRACTS FROM PROTOCOLS OF THE ALGECIRAS CONFERENCE, 1906

No. 33. 2 Avril, 1906. *Dix-septième Séance.*

S.Exc. M. White (États-Unis) prononce ensuite les paroles suivantes : “ Le Gouvernement des États-Unis d'Amérique a toujours considéré comme un devoir de s'associer à tout ce qui pourrait contribuer au progrès des idées d'humanité et assurer le respect dû à toutes les croyances religieuses. Animé par ces sentiments et par l'amitié qui a si longtemps subsisté entre lui et l'Empire marocain dont il suit le développement avec un profond intérêt, mon Gouvernement m'a chargé d'invoquer le concours de la Conférence, au moment où elle est sur le point de terminer ses travaux, en vue de l'émission d'un vœu pour le bien-être des israélites au Maroc. Je suis heureux de constater que la condition des sujets israélites de S.M. Chérifienne a été de beaucoup améliorée pendant le règne de feu le Sultan Mouley-el-Hassan et que le Sultan actuel paraît, autant qu'il lui a été possible, les avoir traités avec équité et bienveillance. Mais les agents du Makhzen, dans les parties du pays éloignées du pouvoir central ne s'inspirent pas toujours suffisamment des sentiments de tolérance et de justice qui animent leur souverain. La Délégation américaine vient donc prier la Conférence de vouloir bien émettre le vœu que S.M. Chérifienne continue dans la bonne voie inaugurée par son père et maintenue par Sa Majesté elle-même par rapport à ses sujets israélites et qu'elle vise à ce que son Gouvernement ne néglige aucune occasion de faire savoir à ses fonctionnaires que le Sultan tient à ce que les israélites de son Empire et tous ses sujets, sans distinction de croyance, soient traités avec justice et équité.”

S.Exc. Sir Arthur Nicolson (Grande-Bretagne) déclare que, conformément aux instructions de son Gouvernement, il est heureux de se rallier à la proposition du premier Délégué des États-Unis.

S.Exc. M. le Duc de Almodovar del Rio (Espagne) s'exprime en ces termes : “ Je m'associe, au nom de S.M. Catholique, aux hauts sentiments de tolérance religieuse qui viennent d'être exprimés par S. Exc. le premier Délégué des États-Unis ; et je tiens d'autant plus à me rallier à sa proposition que le sort des populations israélites au Maroc, rattachées à l'Espagne par des liens de descendance et dont la langue habituelle continue à être la langue castillane, qui fut naguère celle de leurs ancêtres, est particulièrement intéressant aux yeux du peuple espagnol d'aujourd'hui.”

LL.EE. MM. de Radowitz (Allemagne) et Revoil (France) se rallient également au vœu de M. le premier Délégué des États-Unis.

S.Exc. M. le Marquis Visconti Venosta (Italie) déclare qu'il adhère au vœu dont S.Exc. le premier Délégué des États-Unis a pris l'initiative. Il reconnaît que, dans ces derniers temps, les Souverains du Maroc ont donné de preuves de tolérance vis-à-vis de leurs sujets non-musulmans ; mais il ne reste pas moins à désirer que les conditions des juifs dans l'intérieur de l'Empire soient mises au même niveau et entourées des mêmes garanties que dans les villes et ports de la côte. La Conférence, dans le cours de ses travaux, s'est toujours préoccupée du progrès et de la prospérité du Maroc ; elle restera fidèle au même esprit en exprimant à S.M. le Sultan le vœu que tous ses sujets, quelle que soit leur religion, soient appelés à jouir des mêmes droits, ainsi que du même traitement devant la loi et que les ordres que S.M. Chérifienne a donnés ou donnera à cet effet soient fidèlement exécutés. L'assentiment de l'Italie est toujours acquis à l'affirmation des principes de liberté religieuse qui sont une des bases de ses institutions politiques et sociales.

S.Exc. le Baron Joostens (Belgique) déclare que la Délégation belge s'associe entièrement à la déclaration que vient de faire S.Exc. M. le Marquis Visconti-Venosta.

LL.EE. le Jonkheer Testa (Pays-Bas), M. le Comte Cassini (Russie) et M. Sager (Suède) adhèrent aussi aux sentiments exprimés par MM. les premiers Délégués des États-Unis et d'Italie.

Le vœu proposé par S.Exc. M. White est adopté par l'unanimité des Délégués des Puissances.

LL.EE. MM. les Délégués marocains expliquent qu'ils ne manqueront pas de faire connaître cette décision à S.M. le Sultan, qui certainement aura à cœur de procéder dans l'espèce de la même façon que feu son père.

S.Exc. M. White (États-Unis) remercie MM. les Délégués des Puissances d'une adhésion qui répond si entièrement aux vues du Gouvernement des États-Unis et aux sentiments personnels du Président Roosevelt.

(“ Protocoles et Comptes Rendus de la Conférence d'Algésiras ” (Paris. 1906), pp. 246-248.)

IV. THE PALESTINE QUESTION AND THE NATIONAL RESTORATION OF THE JEWS.

UNTIL quite recently the question of the national restoration of the Jews to Palestine did not play a conspicuous part, or, indeed, much of a part at all, in practical international politics. This is not a little strange in view of the great mass of religious opinion which has always been deeply interested in it. It may be profitable to indicate some of the reasons.

✓ In the first place, from the middle of the second down to the middle of the nineteenth centuries the Palestine problem, as a political problem, was exclusively concerned with the custody of the Holy Places of Christendom. After the failure of the many attempts to oust the Turk, the question became one of diplomatic accommodation, and under the Capitulations with France and the Treaties of Carlowitz and Passarowitz between the Holy Roman Empire and the Grand Signior, various expedients were adopted by which Christian interests in Jerusalem might be reconciled with the local political rights of the Ottoman Porte. This difficult problem absorbed the Oriental activities of European diplomacy until after the Crimean War, and it left no room for the consideration of Jewish claims.

✓ In the second place the question during the whole of this period was always primarily one of eschatology rather than of practical politics. Even when the Millenarian mystics sometimes crossed the border-line, the case they presented was not calculated to conciliate sovereign princes. We have a curious instance of this in the first Zionist book published in London, "The World's Great Restoration, or Calling of the Jewes"—(London, 1621)—which was written by Sir Henry Finch, the eminent serjeant-at-law, although his name does not appear on the title page.¹⁰² Among other items in Finch's

¹⁰² Fuller : *A Pisgah Sight of Palestine* (Lond. 1650), bk. iv. p. 194.

programme was one to the effect that all Christian princes should surrender their power and do homage "to the temporal supreme Empire of the Jewish nation." When James I read the book he was furious. He said he was "too auld a King to do his homage at Jerusalem," and he ordered Finch to be thrown into gaol.¹⁰³ In 1795 an exactly similar proposal was made by an ex-naval officer, one Richard Brothers, who announced himself as King of the Jews. He also was prosecuted, but was found to be a lunatic.¹⁰⁴ A certain political interest attaches to the case of Brothers, inasmuch as his scheme for the National Restoration of the Jews was brought before the House of Commons by one of his adherents, Mr. Nathaniel Brassey Halhed, M.P., with a motion for the printing and distribution of Brothers's proposal. The motion failed to find a seconder.¹⁰⁵

In the third place, unless the Restoration were favoured by the Ottoman Government, all schemes to compass it in normal times ran counter to international law and the comity of nations. This point was actually decided in this sense by the Law Courts some seventy years ago in the case of *Habershon v. Vardon*. The case related to a bequest by one Nadir Baxter for the political restoration of the Jews in Jerusalem. The bequest was held void, and the Vice-Chancellor, in giving judgment, said: "If it could be understood to mean anything it was to create a revolution in a friendly country."¹⁰⁶

In the fourth place the idea was likely to weaken the doctrine of the integrity of Turkey, and, for this and other reasons, was inconsistent with the interests and traditional policy of Great Britain and other Western States. It was all the more inconsistent because this policy originally shaped itself in deference to religious considera-

¹⁰³ D'Israeli: *Genius of Judaism*, pp. 200-201.

¹⁰⁴ *The Restoration of the Hebrews to Jerusalem by the Year of 1798 under the Revealed Prince and Prophet* (Lond. 1794). *A letter from Mr. Brothers to Miss Cott with an Address to the Members of His Britannic Majesty's Council* (Lond. 1798). *The Curious Trial of Mr. Brothers . . . on a Statute of Lunacy* (Lond. 1795).

¹⁰⁵ *Mr. Halhed's Speech in the House of Commons . . . on Monday, May the 4th, 1795* (Lond. 1795).

¹⁰⁶ Law Reports: 4 De Gex & Smale, 467.

tions far more precious to Englishmen than the national cause of the Jews. In the sixteenth and seventeenth centuries, when the struggle between the Reformation and the Counter-Reformation was at its height, the naval balance of power in the Mediterranean rested between Spain and Turkey. Hence a bias towards Turkey on the part of Protestant States was inevitable. Curiously enough, the Jews, who were then hostile to Spain, supported the pro-Turkish policy of England, as they did in 1876-78 on account of their antipathy to Russia. In the time of Cromwell this consideration was reinforced by our trade interests in the Levant and in India. A century later the tradition became again imperative owing to the fear of Russia and afterwards of Napoleon. All this rendered a strong and friendly Turkey necessary to us, and hence to entertain the idea of a National Restoration of the Jews to Palestine was to risk offence to a valued ally.

\ A fifth reason was the indifference of the Jews themselves. Until the Zionist movement was founded twenty years ago there was scarcely any symptom of a Jewish desire for international action on their behalf in the Palestine question. This was not for want of opportunity or even for want of suggestion from others. In 1840, when Mehemet Ali was driven out of Palestine and Syria by the Powers, the future of Palestine was open for discussion.¹⁰⁷ The country, with all its Hebrew and Christian shrines, was in the hands of Christendom, who could have done with it as it pleased. Not a voice was raised among the Jews for the restoration of the land to them. And this, be it remembered, was when Sir Moses Montefiore and M. Crémieux were busy in the East in connection with the Damascus Blood Accusation, and when Lord Palmerston was proposing to take the Jews under British protection as a separate nationality.¹⁰⁸ Instead of championing the national aspirations of the

¹⁰⁷ For details see *infra*, pp. 104-106.

¹⁰⁸ Finn: *op. cit.*, i. 106. The passage is worth quoting: "In 1839, Lord Palmerston's direction to his first Consul in Jerusalem was 'to afford protection to the Jews generally.' The words were simply those, broad and general, as under the circumstances they ought to be, leaving after events to work out their own modifications. The instruction, however, seemed to bear on its face a recognition that the Jews are a nation by themselves and that contingencies might possibly

Jews, they contented themselves with obtaining the famous Hatti-Humayoun, or Charter of Liberties for the Jews of Turkey, by which they were more nearly assimilated to Turkish Nationals.¹⁰⁹ In the following year the Powers were actually discussing the future of Palestine, but the Jews again made no move. Even while the negotiations were in progress, a scheme for restoring the Jews as the political masters of the country was drawn up by a Christian, Colonel Churchill, then British Consul in Syria, and submitted by him to Sir Moses Montefiore and the Board of Deputies. Its reception was curiously frigid. Whilst piously blessing Colonel Churchill's proposals, the Board declined to take any initiative.¹¹⁰ It was the same in 1878 when Lord Beaconsfield annexed Cyprus and secured a British Protectorate over Asiatic Turkey. No opportunity could have seemed better for the promotion of Zionist aims, but when Laurence Oliphant pointed this out he found scarcely an echo beyond a small circle of obscure Jewish dreamers in Southern Russia.¹¹¹ Indeed, until the time of Herzl all the most prominent protagonists of Zionism were Christians. The Dane, Holger Paulli, who in 1697 presented a Zionist scheme to King William III of England with a view to its submission to the Peace Conference of Ryswick, was a Christian,¹¹² and even the notorious Jewish pseudo-Messiah, Sabbathai Zevi, who raised the flag of Jewish nationality in Syria thirty years earlier, owed more of his inspiration to English Fifth Monarchy teaching than to Jewish tradition.¹¹³

Nevertheless, there were two occasions on which the Jewish

arise in which their relations to Mohammedans should become difficult, though it was impossible to foresee the shape that future transactions might assume upon the impending expulsion of the Egyptians from Syria."

¹⁰⁹ See text of Firman in Loewe: *Diaries of Sir M. Montefiore*, i. 278-279.

¹¹⁰ *Infra*, pp. 119-124.

¹¹¹ *Memoir of Laurence Oliphant*, ii. 179. As late as January 1888 Mr. Oscar Straus, the United States Minister in Constantinople and himself a Jew, assured the Grand Vizier, with regard to the establishment of a Jewish State in Palestine, "that no such purpose actuated the Jews throughout the world" (*Foreign Relations of U.S.*, 1888, p. 1559).

¹¹² *Anabaptisticum et Enthusiasticum Pantheon* (1702), *Novus in Belgio Judaearum Rex*, p. 25.

¹¹³ Graetz: *Geschichte*, x. 207.

aspects of the Palestine question did enter the field of practical international politics.

The first was in 1799, when Napoleon carried out his audacious raid on British interests in the East by his expedition to Egypt and Syria. A scheme for enlisting the support of the Jews by founding a Jewish Commonwealth in Palestine formed part of the plans for the expedition secretly prepared by the Directory in 1798, and French public opinion was familiarised with it by a good deal of propagandist literature. The Jews were alleged to be anxious to support the French in the Levant, and a bogus Zionist scheme—very much on the Herzlian lines—supposed to be written by an Italian Jew—was widely circulated in France. It embodied an appeal to the Jews of the world to form a representative council through which they could negotiate with the Directory for Palestine. It was supported in a very soberly reasoned article by the *Décade Philosophique et Littéraire*, and was soon after published in the London Press and reprinted as a twopenny pamphlet by the *Courier*.¹¹⁴ Ten months later Napoleon, marching from El Arish on the road which has lately been traversed by General Allenby, published a proclamation inviting the Jews of Asia and Africa to rally to his standard "for the restoration of the ancient kingdom of Jerusalem."¹¹⁵ The scheme collapsed with the battles of Acre and Aboukir.

The second occasion was in 1841, when the Powers had to decide on the fate of Syria and Palestine wrested by them from Mehemet Ali. It is true that the Jewish element in the question received very scanty attention and evoked no positive sympathy, but, at any rate, it was mentioned, and this fact indicates that the Powers had begun to realise that the future of Palestine was not exclusively a Christian question. The exchange of views which then took place is, however, interesting for other reasons. The documents, which are now published for the first time, comprise four separate schemes for solving the Palestine problem, and the considerations discussed in connection with them constitute a body of material which may be usefully studied at the present moment.

¹¹⁴ "Re-establishment of the Jewish Government, with a letter from a Jew to his Brethren; copied from the *Courier*, June 10, 1798."

¹¹⁵ Lemoine: *Napoléon et les Juifs* (Paris, 1900), p. 72.

The first scheme, apparently suggested by France, contemplated the creation of a small autonomous Ecclesiastical State, consisting of Jerusalem, constituted as a Free City, with a limited *rayon* of territory. This was to be governed by a Christian municipality, organised and protected by the Great Christian Powers.¹¹⁶ Russia raised objections in October 1840, and incidentally took occasion to ridicule the idea of a National Restoration of the Jews.¹¹⁷ Both Russia and Austria were anxious to preserve the Turkish domination, and to that end made counter-proposals. The Russian scheme proposed that Palestine should become a separate Pashalik, that the Church of the Orient should be restored, that the Greek Patriarch should resume his residence in Jerusalem, and that a special Church and Monastery should be founded for the use of the Russian clergy and pilgrims. The Austrian scheme proposed to leave the Turkish administration untouched except in regard to jurisdiction over Christians. This was to be confided to a high Turkish official directly responsible to Constantinople and advised by a Council of Procureurs appointed by the Great Powers.¹¹⁸ Russia opposed the Austrian scheme.¹¹⁹ Thereupon Prussia put forward a fourth scheme of a far more ambitious character.¹²⁰ It provided for a European Protectorate of the Holy Cities of Jerusalem, Bethlehem, and Nazareth, and a sort of national autonomy for the various Christian sects which might be extended to the Jews, the whole to be governed by three Residents appointed by the Christian Powers. Each Resident was to have a small military guard. The Protestant Church, under the joint protection of Great Britain and Prussia, was to be recognised as on an equal footing with the other Churches, and to establish its headquarters and other institutions—including schools for Jews—on Mount Zion, which was to be fortified.¹²¹ This scheme was strongly

¹¹⁶ *Infra*, p. 107. There is no trace of this scheme in the Foreign Office papers except in the reference here quoted from the Russian Memorandum, but Tatistcheff, who saw the Russian set of these papers in the Petrograd Foreign Office, describes a scheme submitted by Guizot to Palmerston and Metternich which seems to be the one referred to here. (Kamarowsky: "La Question d'Orient," in *Revue Générale de Droit International Public*, iii. 423.)

¹¹⁷ *Infra*, pp. 107-109.

¹¹⁸ *Infra*, p. 113.

¹¹⁹ *Infra*, pp. 111-113.

¹²⁰ *Infra*, pp. 114-116.

¹²¹ Covering despatch from Baron Bülow, *infra*, p. 116.

opposed by Austria, in whose view Lord Palmerston concurred.¹²² Russia also opposed it, but in Paris it was received sympathetically.¹²³

In the end all these schemes were dropped, and Palestine was handed back to the Porte practically without any new conditions. Prussia, however, continued her negotiations with Great Britain, both with a view to general reforms and to the recognition of the Protestant Church in Jerusalem. For this purpose she sent Baron Bunsen to London on a special embassy.¹²⁴ Among the reforms proposed by him were facilities for the purchase of land, "as many persons in Protestant Germany, Jews and Christians, are desirous of settling in Palestine."¹²⁵ Eventually he negotiated with Palmerston the Anglo-Prussian Agreement for the establishment of a Protestant Bishopric in Jerusalem. There is a curious reference to the Restoration of the Jews in Bunsen's account of this transaction:¹²⁶

"Monday, 19th July, 1841.—This is a great day. I am just returned from Lord Palmerston; the principle is admitted, and orders to be transmitted accordingly to Lord Ponsonby at Constantinople, to demand the acknowledgement required. The successor of St. James will embark in October; he is by race an Israelite,—born a Prussian in Breslau,—in confession belonging to the Church of England—ripened (by hard work) in Ireland—twenty years Professor of Hebrew and Arabic in England (in what is now King's College).¹²⁷ So the beginning is made, please God, for the restoration of Israel."

It should be added that probably one of the reasons why, during recent years, the British Government has held aloof from the Palestine question is that by the Treaty of London of July 15, 1840, Palestine was recognised as an integral part of Syria,¹²⁸ and that in 1878, at the Berlin Congress, Lord Salisbury agreed to recognise the

¹²² Despatch from Lord Beauvale and draft of reply by Palmerston, *infra*, pp. 116–117. ¹²³ Kamarowsky, *op. cit.*, p. 423.

¹²⁴ *Memoirs of Bunsen* (London, 1868), i. 593 *et seq.*

¹²⁵ Memorandum of July 15, 1841, presented to Palmerston by Bunsen (F.O. 64/235 Prussia).

¹²⁶ Letter from Bunsen to his Wife (*Memoirs*, i. 608–609).

¹²⁷ Bishop Alexander was before his conversion Minister of the Jewish Synagogue at Plymouth.

¹²⁸ Holland: *European Concert in Eastern Question*, p. 93.

whole of Syria as a French sphere of interest in return for the French recognition of the Cyprus Convention between Great Britain and Turkey.¹²⁹ It is to be assumed from the terms of the Secret Agreement of February 21, 1917,¹³⁰ that British interests in the Suez Canal and other more recent events have modified that arrangement.

During the present war the growing strength of the Zionist movement, and the energy of its leaders, have forced the Restoration idea on the attention of the Great Powers. In November 1917 Great Britain led the way with a promise to give sympathetic consideration to the aims of the Zionists.¹³¹ With this promise the other Entente Powers have since associated themselves.

DOCUMENTS.

THE GREAT POWERS AND PALESTINE, 1840-1841.

Memorandum delivered by the Russian Government to the Prussian Government in October 1840.

Des opinions diverses et pour la plupart contradictoires, ont circulé récemment en Europe, et surtout en France, sur les facilités que les grandes Puissances intervenues dans les affaires de l'Orient, auraient, dans ce moment, pour accomplir l'œuvre que les Croisés d'autrefois avaient vainement tentée dans leurs longues et sanglantes guerres. Le projet d'ériger une Souveraineté Chrétienne en Palestine, a été mis, si non sérieusement discuté. D'autres ont pensé à la possibilité de faire revivre l'ancien ordre des Chevaliers du St. Sépulchre pour lui confier la garde de ce sanctuaire. Il y a eu même quelques individus qui ont exprimé le vœu d'appeler dans la ville de Salomon les Juifs dispersés dans différents pays pour tenter la conversion sociale et religieuse de ce peuple d'antique et coupable origine.

Il serait superflu de discuter ici tous ces projets, on ne s'arrêtera qu'à l'examen d'une autre combinaison dont la réalisation serait désirable, si elle était possible. Il s'agirait de l'assentiment de la Porte et d'une entente entre les principales cours de l'Europe pour ériger Jérusalem une ville libre, avec un rayon de territoire convenable et sous une administration municipale organisée sous les auspices des Puissances qui se déclareraient les protectrices et les garanties de ce petit état ecclésiastique.¹³²

¹²⁹ *British and Foreign State Papers*, lxi. 1342-1353 ; lxxiii. 438.

¹³⁰ *Infra*, p. 124.

¹³¹ *Infra*, pp. 124-125.

¹³² This was probably the scheme suggested by Guizot (*supra*, p. 105).

Un pareil arrangement doit assurément réunir beaucoup de suffrages. Cependant, avant d'aborder la question d'une manière sérieuse, soit avec les autres Cabinets, soit avec le Divan il importe de calculer d'avance les moyens dont on disposera pour mener l'œuvre à bon terme, les difficultés locales qu'on aura à surmonter dans la réalisation du plan convenu et les probabilités qui s'offrent pour le maintien du nouvel ordre de choses qu'on parviendrait à établir. Sous tous ces rapports on peut consulter avec profit les renseignements et les données que le Ministère de Sa Majesté possède, et qui lui ont été fournis en partie par les indigènes, mais plus particulièrement par deux employés du service de S.M. qui ont visité la terre sainte à des époques différentes, et recueilli sur les lieux mêmes des informations dont on ne saurait revoquer en doute l'exactitude.

Il résulte de l'ensemble de ces informations :

1. Que la ville de Jérusalem, située entre la Syrie, l'Egypte et le désert, a été de tout temps exposée d'une part aux incursions des Arabes Bédouins et de l'autre aux vexations des Pachas voisins.

2. Que sa population, composée d'environ 15/m. âmes, parmi lesquelles on compte à peine un millier de Chrétiens appartenant à diverses communions, n'offre guère d'éléments propres à la formation d'une administration municipale indigène, digne de quelque confiance, sous le rapport politique ou religieux.

3. Que l'éloignement des côtes de la mer, distantes de la ville de près de deux journées de marche à travers une route escarpée et déserte, ne permettrait pas aux bâtiments de guerre Européens de prendre sous la protection de leurs canons la défense de la cité et de ses habitants.

4. Que la population Musulmane et Arabe établie depuis des siècles dans le pays et qui possède dans la seule ville de Jérusalem plus de trente mosquées, ainsi que le fameux temple de Salomon que les premiers califes conquérants ont rebâti, s'assujettiraient difficilement à un Gouvernement Chrétien quelconque, qui ne disposerait pas de beaucoup de ressources et d'une forte garnison, pour en imposer aux hordes des Bédouins et pour réduire par les armes tout ce qui s'opposerait au nouvel ordre de choses.

Les mêmes rapports signalent, sous les plus tristes couleurs, la désunion profonde et la rivalité incessante qui existe entre les Chrétiens des diverses communions, admis à l'adoration du St. Sépulcre et dont les scandaleuses dissensions, loin d'être amorties ou contenues par la sainteté du lieu, y ont éclaté souvent avec une vivacité haineuse et une obstination fanatique que la présence des autorités Musulmanes pouvait seule contenir dans de certaines bornes.

Nous savons enfin de manière à ne pas pouvoir en douter que les religieux Latins, pour la plupart Espagnols et Portugais d'origine, et qui, durant leur mission en terre sainte, se trouvent sous la protection spéciale de la France,

sont les principaux fauteurs de cette rivalité si peu évangélique, en s'élevant sans cesse des prétentions sur la possession exclusive et la garde du St. Sépulcre et en invoquant en leur faveur les traités de François I avec la Porte et même les souvenirs des Baudouin et de Godefroi.

Enclosure in Russian Mem. of October 1840.

1. Publication d'un nouveau Hatti Schérif avec pleine confirmation de tous ceux qui ont été émanés sous les règnes antérieurs en faveur de l'Église et du Clergé de Jérusalem.

2. Nomination d'un Pacha ou moschir de la Palestine, homme de sens et de justice, qui fixerait sa résidence, soit à Jérusalem, soit à Jaffa, avec une autorité civile et militaire, suffisante pour y maintenir le bon ordre et pour faire respecter les lieux de sa juridiction par les Bédouins du désert qui, n'étant plus contenus par la crainte des troupes Égyptiennes, recommenceront probablement bientôt leurs brigandages habituels sur les couvents Chrétiens des environs de Jérusalem et sur les caravanes des pèlerins que la dévotion appelle des pays les plus éloignés.

3. Défense positive au Clergé Grec comme à celui des Catholiques et des Arméniens, de renouveler leurs dissensions anciennes et souvent puériles en cherchant à se calomnier mutuellement et à s'exclure des églises et des oratoires, dont les Hatti Chériffs précités ont fixé la possession à chacune de ces communautés.

4. Défense sévère au Mollah et au Cadi de Jérusalem de rançonner les religieux et les supérieurs des couvens, toutes les fois que ces ecclésiastiques ont recours à la justice locale, ou qu'ils cherchent à se disculper de quelque avanie.

5. La crainte de ces mêmes avanies et les frais considérables d'installation, auxquels étaient exposés les patriarches de Jérusalem toutes les fois qu'ils se rendaient dans leur diocèse, ayant obligé depuis quelques années ces prélats à séjourner à Constantinople, en laissant à leurs vicaires le gouvernement de leur église, la Porte ferait aujourd'hui un acte de politique et d'équité à la fois, en accordant au patriarche actuel d'autorisation et les facilités dont il peut avoir besoin, pour se rendre sur les lieux de sa juridiction spirituelle, et veiller de près à la discipline de ses subordonnés et au redressement des désordres ou des abus, que les troubles récents et les changemens politiques survenus dans ces contrées, peuvent y avoir introduits.

6. Toute innovation dans l'antique hiérarchie de l'église d'Orient serait rejeté comme dangereuse et inutile et toute réclamation de priorité ou de privilège de la part des religieux des autres communions, ne serait admise qu'après un examen impartial et approfondi de la question. Dans les cas de

cette nature, il semblerait que le tribunal le plus compétent, à en juger, serait une commission ou conseil du Gouverneur de la province, du patriarche de Jérusalem, ou en son absence, de son vicaire, du supérieur des ecclésiastiques Arméniens et d'un commissaire ad hoc, choisi et nommé par la Porte parmi les prélats les mieux réputés de la nation Grecque établis à Constantinople.

Ce conseil pourrait aussi fixer aux deservans des cultes respectifs, les heures des prières et des cérémonies, en régularisant d'une manière équitable et définitive ce point qui a été souvent un sujet de litige et qui a même occasionné des rixes scandaleuses dans l'enceinte d'un Temple, où l'union et l'humilité devraient régner constamment.

7. La réparation des églises et des couvens ruinés ou endommagés par le temps et les incendies, sera permise par les autorités locales, toutes les fois que les supérieurs de ces communautés en demanderont l'autorisation, et le Gouvernement n'exigera pas dans ces occasions des cadeaux ou des bénéfices arbitraires.

8. Défense sévère serait faite aux soldats Turcs préposés à la garde des portes de l'église qui renferme le Saint Sépulcre, de s'introduire dans l'antérieur du temple, sous prétexte d'y faire la police. Ces gardiens recevraient également l'ordre de témoigner tous les égards et tout le respect qui sont dûs au patriarche et à ses délégués.

9. Pour ce qui concerne plus spécialement les pèlerins Russes qui visitent chaque année les lieux saintes, la sublime Porte serait invitée à prescrire à ces officiers civils et militaires de leur accorder toute protection et assistance. Et afin que ces voyageurs, étrangers pour la plupart aux usages et à la langue du pays, ne soient exposés à des avanies ou à des retards dans l'accomplissement de leurs vœux, le consul de S.M. Impériale résidant à Jaffa aura l'autorisation d'accompagner, toutes les fois qu'il le jugera nécessaire, la caravane des pèlerins de sa nation et de veiller sur eux pendant le tems de leur séjour à Jérusalem.

10. Les religieux de la plupart des nations chrétiennes possèdent à Jérusalem des établissemens pieux où ils se réunissent, soit pour y demeurer, soit pour y célébrer les cérémonies de leur rit dans leur propre langue.

Les ecclésiastiques Russes sont seuls privés de cet avantage, et doivent par conséquent recourir, toutes les fois qu'ils visitent la terre sainte, à l'hospitalité et à l'assistance spirituelle de leurs co-religionnaires les ecclésiastiques Grecs. Il serait de toute justice que la Porte autorisât le Patriarche d'assigner une des églises ou monastères de la ville à l'usage exclusif du clergé et des pèlerins Russes, et que les autorités civiles et militaires du pays eussent l'ordre précis de reconnaître et de respecter cet établissement, comme étant placé sous la protection spéciale de la Russie et sur le surveillance de son Consul.

*Memorandum delivered by the Austrian Government to the Prussian Government
in October 1840.*

Les succès obtenus en Syrie qui ont amené la soumission de Méhémet Ali et la détermination de Sa Hautesse de la faire suivre par l'investiture du Pacha d'Egypte du Gouvernement héréditaire de cette Province viennent de mettre au grand jour le résultat vers lequel tendaient les transactions de Londres, dictées par les vœux uniformes des Puissances Chrétiennes, d'assurer la paix politique de l'Europe par le maintien de l'indépendance et de l'intégrité de l'Empire Ottoman qui devait ressortir du règlement définitif des rapports entre la Sublime Porte et le Gouvernement de l'Egypte. La Syrie qui avait été placée pendant quelque temps sous la domination de ce dernier et avait offert aux étrangers une sécurité analogue à celle qu'ils trouvaient en Egypte, pendant que la population indigène Syrienne se voyant assimilée à celle de cette province et menacée de perdre toutes les conditions d'un état social tout différent et basé sur des lois positives, des transactions historiques et des habitudes gouvernementales garantissant la propriété, la liberté du commerce, &c., &c. ; la Syrie rentrée maintenant par les succès des armées du Sultan et de ses alliés sous la domination du Grand Seigneur, réclame les soins les plus assidus du Gouvernement Ottoman, afin d'ôter tout prétexte raisonnable à ceux qui voudraient déverser un blâme sur les résultats obtenus en 1840, en alléguant que la condition de cette Province intéressante, aurait empiré à leur suite.

Les Puissances qui ont prêté leurs conseils et leurs secours à S.H. dans le but invariable d'assurer l'indépendance de son pouvoir et l'intégrité de son Empire contre les usurpations d'un sujet rebelle, doivent abandonner maintenant au Sultan le soin de faire participer ses sujets en Syrie aux bienveillantes dispositions pour ses peuples, énoncées dès le commencement de son règne par le Hat de Gulhané ; et si leurs conseils doivent tendre à hâter leur réalisation, elles auront dans les voies d'une sage politique, à en surveiller l'exécution.

Mais le fait même, nouveau dans l'histoire, du secours porté par des Puissances Chrétiennes au Grand Seigneur contre un sujet rebelle, auquel l'opinion publique attribuait le mérite d'avoir procuré, dans les pays soumis à sa domination de fait, aux Chrétiens tant indigènes qu'étrangers plus de sécurité pour leurs personnes et une plus grande tolérance que celles qu'ils y trouvaient auparavant, impose à ces Puissances comme devoir de conscience de peser mûrement les moyens pour épargner tant au Grand Seigneur, leur allié, qu'à Elles-mêmes, le blâme qui pourrait ressortir pour Elles, si la condition des Chrétiens en Syrie allait se présenter sous un jour moins favorable, à la suite de la réintégration de cette Province sous la domination directe du

Grand Seigneur. C'est pour obvier à cette fâcheuse éventualité que le Cabinet Impérial soumet à ses Alliés les considérations suivantes :

Les Chrétiens en Syrie sont ou fixés dans le pays, ou ils y résident temporairement. Les premiers constitués en corps de nations, comme Maronites, Arméniens, &c., &c., jouissent d'une existence politique découlant de capitulations, traités, privilèges, &c., &c., et se trouvent sous des Chefs ressortant de ces derniers ; la Sublime Porte vient d'énoncer sa ferme volonté de donner à cet état de choses, les développements et la fixité qu'il réclame et pour lequel ces Populations ont acquis un nouveau titre à la suite du dévouement qu'elles viennent de montrer pour rentrer sous la domination légitime.

Une autre partie de la population sédentaire Chrétienne est répandue dans le reste du pays, soumise aux lois générales et protégée par le Hat de Gulhané. Elle ne saurait demander que la stricte observation de ces dispositions par les autorités locales, et toute la tendance du Gouvernement Ottoman est là pour la leur assurer dans l'avenir.

La population Chrétienne transitoire se compose en partie de ceux qui y arrivent comme étrangers pour leurs affaires de commerce, les traités existant avec les différentes Puissances et la protection consulaire assurent leur condition. Mais la Syrie renferme les lieux que l'origine de la Religion Chrétienne a sanctifiés pour toujours et où la piété des fidèles a établi de nombreuses fondations et qui ont attiré de tous tems de nombreux pèlerins ; ces fondations et ces pèlerins ont joui depuis l'occupation Mahométane de nombreux privilèges, qui, à partir de 1059 jusqu'en 1803, se sont succédés et dont l'effet n'a pu être suspendu ou contrarié que par le fait des autorités locales Musulmanes, qui, au lieu de se conformer aux dispositions souveraines et à l'esprit de la législation et du centre, gardiennes de la foi jurée, et favorables à une tolérance conforme aux principes du Coran et à un Gouvernement éclairé, se sont laissées égarer par un esprit de lucre et de partialité.

Il paraît donc que l'action tutélaire du centre du Gouvernement, qui doit vouloir le maintien des concessions faites, des privilèges donnés, &c., &c., a manqué jusqu'ici d'organes propres pour obvier à ces abus, et que le but spécial, dont ils sont l'objet, la protection des lieux saints et des pèlerins de toute la Chrétienté qui vont les visiter, ne saurait être atteint, tant qu'il ne formerait qu'une des attributions des administrations ordinaires ; ne serait-ce pas ici le cas pour que la Porte se décidât à nommer un employé spécial, afin d'assurer le maintien des anciens privilèges et l'exécution des dispositions du Hat de Gulhané à l'égard des lieux saints, et les Chrétiens qui forment la population sédentaire et mouvante Chrétienne de ces lieux ?

Cet employé d'un rang assez élevé pour assurer sa position et garantir les attributions de sa place vis-à-vis l'autorité du Pacha revêtu du Gouvernement civil et militaire, cet employé chargé directement de tout ce qui aurait rapport aux lieux saints et aux pèlerins et mis en contact avec les repré-

sentans des Gouvernemens Chrétiens nommés ad hoc, qui, sous la dénomination de *Procureurs*, auraient à soutenir les droits de leurs nationaux sous le point de vue confessionnel ; cet employé placé pour sa personne en rapport direct avec le centre du Gouvernement à Constantinople, ne recevant d'ordres que de là où toute réclamation possible contre lui et tout appel en dernière instance s'adresserait également par les organes diplomatiques des Puissances Chrétiennes, répondrait à un besoin qu'il est facile de pressentir dès ce jour, et dont l'expérience démontrera ou l'utilité, s'il est nommé à tems, ou la nécessité si l'on tarde à y pourvoir.

Il ne s'agit pas de faire du nouveau pour le fond ; il s'agit de maintenir des privilèges, et de régulariser de nouveau ce qui a existé et ce qui est tombé en désuétude dans le cours des siècles. Le pèlerin religieux est respectable aux yeux du croyant, le gardien des lieux saints ne l'est pas moins, le Gouvernement central et l'esprit religieux du peuple le reconnaissent et le sentent également ; ce n'est que les abus des passions et des positions subalternes qui ont fait et qui font le mal et auxquels il s'agit d'opposer la digue d'une entente entre les Puissances et la Porte qui aurait pour objet de régulariser l'action d'une autorité bien organisée dépendant directement du centre de l'Empire, autorité qui ne saurait avoir un autre intérêt que celui de répondre au but de son institution.

(F.O. Docs. 64/235.)

Lord Clanricarde to Lord Palmerston (Extract).

ST. PETERSBURG,

February 23, 1841.

MY LORD,—. . . The memorandum of Prince Metternich, suggesting the establishment of a Turkish Commissioner in the Holy Land, for the protection of Christian Pilgrims, and Travellers, and proposing a joint, or simultaneous application from the European Powers to the Porte, in which France might take a part, and thus be drawn out of her isolated position, has been coldly received by the Russian Government. Count Nesselrode said it did not appear to him a necessary or desirable measure, and that the Consuls in Syria were adequate to protect the Europeans, whom Commerce, piety, or curiosity might attract to that Country. . . .

The Emperor and his Ministers seem to think that age, and a great sense of the responsibility that is upon him, have of late much increased Prince Metternich's natural caution and timidity.

I have the Honour to be with the Highest Respect, My Lord,

Your Lordship's most obedient Humble Servant,

CLANRICARDE.

THE VISCOUNT PALMERSTON, G.C.B.

(F.O. Docs. 63/271.)

Mémoire of the King of Prussia dated February 24, 1841, delivered to Lord Palmerston by Baron Bülow.

Les événements importants qui viennent de s'accomplir en Orient, ont replacé sous l'autorité souveraine du Sultan la Palestine et y ont rétabli l'état politique qui existait avant l'occupation de Méhémet Ali. Ce n'est pas par ses propres moyens que le Sultan a réussi à expulser son vassal rebelle de cette contrée, berceau du christianisme et cher à toutes les communions de la grande Eglise chrétienne. Le chef de la religion musulmane doit ce succès à un Traité que quatre des Puissances chrétiennes ont conclu avec lui et qui a reçu son exécution par la valeur chevaleresque de militaires chrétiens. Plus le noble désintéressement des Puissances qui ont porté secours à l'Empereur des Ottomans, leur four. it des titres à sa reconnaissance moins il peut être douteux que ces mêmes Puissances sont pleinement en droit de réclamer de ce souverain des concessions dans un but purement spirituel et uniquement destinées à relever l'exercice du culte chrétien de la triste condition où il se trouve dans la contrée même qui l'a vu naître.

Le Roi, notre auguste maître, a saisi cette idée. Profondément attaché à ses convictions religieuses et pénétré de ses devoirs comme Prince chrétien, Sa Majesté se reconnaît dans le concours de la Prusse aux stipulations du 15 Juillet 1839 un droit et se sent la vocation de signaler à l'attention des autres Puissances chrétiennes l'opportunité du moment actuel et les précieuses facilités qu'il offre, pour obtenir du Grand-Seigneur l'amélioration du sort des chrétiens qui habitent la Terre sainte, l'affranchissement de leur culte et l'établissement d'institutions qui garantissent à l'avenir aux Chrétiens de toutes les confessions le libre accès des lieux, objets de leur vénération et témoins des événements sur lesquels repose l'espérance de leur salut éternel.

Sa Majesté est persuadée que les autres Souverains partageront les sentiments qu'Elle professe Elle-même. D'ailleurs il est incontestable que depuis une demi-siècle, les esprits les plus élevés ont déjà plaidé la cause que le Roi, notre auguste maître, recommande à la sollicitude des grandes Cours Européennes. Il serait superflu de citer des noms, mais le nombre et la qualité des voyageurs de toutes les nations et de toutes les confessions chrétiennes, qui affluent à Jérusalem, attestent déjà que la Chrétienté prend toujours un vif intérêt aux lieux saints et que cet intérêt, loin de se refroidir, se ravive avec le progrès que l'esprit religieux fait en Europe.

En comptant avec une entière assurance sur les sympathies de SS.MM. l'Empereur d'Autriche, de Russie et de la Reine de la Grande Bretagne pour les vœux qu'il forme à ce sujet, le Roi, notre auguste maître, Leur fait proposer de faire valoir auprès de la Porte Ottomane les immenses

services qu'elles viennent de lui rendre, pour l'engager à conclure avec les grandes Puissances Européennes un arrangement qui place les villes saintes de Jérusalem, Bethléhem et Nazareth, sauf les droits de souveraineté du Sultan, sous la protection commune de ces Puissances.

D'après les idées de Sa Majesté l'arrangement à conclure porterait que

1. Les populations chrétiennes des dites villes, les églises, couvents, hospitaux qui en dépendent, ainsi que les pèlerins, les savants, les artistes, les artisans chrétiens, &c., &c., qui y feraient un séjour passager, obtiendraient des immunités et des franchises telles que l'intervention des autorités turques dans leur administration intérieure fût exclue. Ces immunités et franchises seraient cependant accordées sans préjudice des droits de Souveraineté du Sultan.

2. Les habitants chrétiens des dites villes cesseraient d'appartenir à la catégorie de Rayahs ; ils seraient à l'avenir *exclusivement* justiciables, quant à leur personnes et quant à leur propriétés, des Résidents des cinq grandes Puissances Européennes, de manière que leurs obligations envers la Porte se réduiraient à un tribut dont le montant annuel serait acquitté par la communauté (non par les individus).

3. La propriété des lieux saints à Jérusalem, Bethléhem et Nazareth passerait aux cinq grandes Puissances chrétiennes et ferait l'objet d'un arrangement spécial à conclure avec ceux qui se trouvent maintenant en possession de ces localités.

4. Les chrétiens habitant soit pour toujours soit temporairement les villes saintes, se formeraient d'après les différentes confessions, en autant de corps spéciaux, catholiques-romains, grecs, évangéliques. Les Arméniens et les Syriens se joindraient au premier ou au second de ces corps, selon leur rite actuel. Chacun de ces corps serait considéré comme une communauté spéciale légalement constituée. Toutes les communautés jouiraient de droits fixés d'avance à l'égard des lieux saints ; la communauté évangélique serait autorisée à établir un culte selon ses rites, à fonder un hospital, &c., &c. Les Chrétiens de cette confession seraient admis à faire leur dévotion dans l'église du St. Sépulchre et dans la Basilique de Bethléhem, dont les parties seraient spécialement destinées à leur usage.

5. La direction des communautés serait confiée à trois Résidents. Celui de la communauté catholique serait à la nomination de l'Autriche et de la France, la Russie nommerait le Résident pour la communauté grecque ; la Grande Bretagne et la Prusse celui des protestants. Chaque Puissance qui nommerait un résident, mettrait à sa disposition un garde de 60 soldats. La formation de ses gardes ferait l'objet d'une stipulation ultérieure.

On choisirait quelques points pour les fortifier autant qu'il le faudrait, pour les mettre à l'abri d'une incursion subite de hordes arabes et pour que

les communautés chrétiennes pussent s'en servir pour mettre en sûreté les vases sacrés précieux et leurs propriétés en général.

L'ancienne place du temple et la mosquée d'Omar resteraient dans tous les cas aux Turcs.

On pourrait encore soumettre à une délibération commune, si les cinq Puissances ne stipuleraient pas également en faveur des Juifs domiciliés à Jérusalem et de ceux qui s'y rendent en pèlerinage, des immunités analogues à celles à obtenir pour les Chrétiens.

Covering Letter from Baron Bülow to Lord Palmerston, March 6, 1841 (Extract).

. . . Il faudra donc faire obtenir aux membres de l'église évangélique (sans distinction des communions spéciales qui la composent) la propriété exclusive d'une place distincte près du St. Sépulcre de Jérusalem et dans l'église du même nom pour y faire leurs prières et pour y célébrer leur culte. Cette place serait mise sous la protection spéciale des deux Puissances qui en garantiraient la possession paisible à la communauté protestante. Il s'agira aussi d'acquérir pour cette communauté le mont Sion afin d'y bâtir un hospice pour tous ceux qui visiteront ces contrées par des motifs religieux ou scientifiques, d'établir des presbytères et des hospitaux, de fonder des écoles pour les enfans de la population protestante (peut-être aussi pour les enfans juifs), enfin de construire des ouvrages de fortification dont la faible garnison, mentionnée dans le mémoire, aura besoin pour se défendre. . . .

(F.O. Docs., 64/235.)

Lord Beauvale to Lord Palmerston.

VIENNA, *March 2nd*, 1841.

MY LORD,—The King of Prussia has sent His Minister at this Court a proposition for regulating the position of the Christians in Syria, which, if it were acted upon, would in Prince Metternich's opinion throw that Country into inextricable confusion. His Highness transmitted a few days back a memorandum on the subject to London which He persists in regarding as establishing the only advantageous mode of treating the question, and as He purposes drawing up a statement of his objections to the Prussian proposition, He earnestly entreats that no acquiescence may be given to any part of it on behalf of the British Government until those objections have been submitted to Your Lordship.

I have the honor to be with the greatest respect, My Lord,

Your Lordship's Most Obedient Humble Servant,

BEAUVALE.

THE VISCOUNT PALMERSTON, G.C.B.

(F.O. Docs., 7/298.)

Lord Palmerston to Lord Beauvale (Draft).

F.O., March 11th, 1841.

MY LORD,—With reference to Your Excellency's despatch No. 38 of the 2nd instant reporting Prince Metternich's objections to the Prussian scheme for regulating the position of the Christians in Syria, I have to inform Your Excellency that H. M.'s Government agree very much with Prince Metternich's as to that scheme.

P.

(F.O. Docs. 1/296.)

Memorandum of Austrian Government delivered to Lord Palmerston by Prince Esterhazy, March 31, 1841.

Sur le Mémorandum du 3 Février ¹³³ et le mémoire Prussien, relativement à la protection des Chrétiens en Syrie.

La différence entre le mémorandum du 3 fév. et le mémoire prussien consiste en ce que le premier fournit un moyen pratique pour *porter remède* au mal existant, sans entreprendre une réforme dangereuse, tandis que l'autre tend à introduire *un nouvel ordre de choses* en faveur de la représentation de l'Église évangélique, par des moyens inexécutable.

Le travail du 3 fév. se base sur la vérité, que ni les populations chrétiennes sédentaires et mouvantes, ni les couvens des trois confessions, catholique, grecque et arménienne, n'ont jamais eu à se plaindre d'un manque de tolérance musulmane. C'est un témoignage irrécusable qu'on peut recueillir sur les lieux auprès de ceux même qui y sont les plus intéressés.

Des firmans sans nombre, relatifs à des privilèges et à la donation de lieux saints aux environs de Jérusalem, Bethléhem et Nazareth se trouvent déposés aux archives des différens couvens, et s'ils n'ont point été mis en exécution et forment le sujet de disputes continuelles entre les trois confessions, la faute n'en est pas au Gouvernement Turc, mais uniquement à *la vénalité* des Musselims, comme autorités locales.

L'exécution des firmans toujours mise arbitrairement à un prix très élevé est devenu de la part des Musselims une spéculation financière.

La désunion regrettable qui règne entre les confessions, ou comme on les appelle sur les lieux, les trois nations, exploite cette corruptibilité, tantôt pour suspendre l'exécution d'un firman jaloué, tantôt pour obtenir moyennant l'intervention du Musselim un second firman annulant le premier, ce qui a surtout lieu, lorsqu'il s'agit de la donation d'un lieu saint. En pareil cas

¹³³ This Memorandum is identical with the Austrian Memorandum of October 1840, which at the time was only communicated to the Prussian Government (*supra*, pp. 111-113).

la confession la plus offrante est sûre d'atteindre son but et rien n'est plus à désirer que *la punition sévère du trafic illicite et honteux, qui se pratique avec les firmans et l'irrévocabilité de ceux une fois émanés.*

C'est donc en parfaite connoissance du véritable siège du mal, que le mémorandum du 3 février a cherché le remède dans le renfort de l'action tutélaire du Gouv. par un employé sultanique spécial d'un rang assez élevé pour être placé à côté des Musselims ; employé qui serait chargé directement de tout ce qui aurait rapport aux lieux saints et aux pèlerins—qui serait mis en contact avec les Représentans des Gouvernemens Chrétiens nommés ad hoc, sous la dénomination de procureurs et qui ne recevrait d'ordres que de Constantinople où les plaintes élevées contre lui seraient portées à la connoissance du Gouvernement dans la voie diplomatique.

Le mémoire prussien tendant à établir sur les lieux une représentation de l'église évangélique et sa participation aux fondations existantes, suscite une question toute nouvelle, dont la portée n'est pas à calculer.

Sans considérer l'opposition de Rome, du St. Synode de St. Pétersbourg, et du Patriarchat grec à Constantinople le mémoire suggère des moyens qui, loin de porter remède au mal existant, feraient naître des nouvelles complications et accroître la désunion parmi les confessions chrétiennes. Ce regrettable resultat serait surtout amené par les points suivans du mémoire prussien :

A. *La propriété des lieux saints à Jérusalem, Bethlém et Nazareth passerait aux cinq grandes Puissances.*

Mais cette propriété est aux différentes confessions, qui déjà jalouses de la partager entre trois, ne voudraient certainement pas faire une cession de droits acquis, en faveur d'une quatrième prétendant.

B. *Les Chrétiens évangéliques auraient dans l'église du St. Sépulcre à Jérusalem et dans celle de Bethlém des parties spécialement destinées à leur usage.*

Mais dans ces deux églises chaque pouce de terrain est disputé par les trois confessions. Toute la Basilique de Bethlém fut adjugée, il y a 80 ans, aux Grecs ; en vertu d'un firman obtenu par des sommes considérables, eux et les Arméniens possèdent seuls la propriété de la Grotte de la Nativité ; les moins franciscains n'osent point y dire la messe, et il n'y a que l'autel de la Ste. Crèche qui appartienne à ces derniers. Dans le temple de Jérusalem existent les mêmes subdivisions exclusives. Chaque chapelle forme pour ainsi dire une monopole ; celle du Calvaire est partagée en deux—l'autel des Grecs occupant la place de l'exaltation de la croix, celui des Catholiques celle du crucifement. Comment faire entrer une quatrième confession dans un partage déjà si contesté ? La répartition toute faite de localités dont la propriété est aussi hautement appréciée par la confession qui la possède qu'enviée par la confession qui voudrait l'usurper, s'opposerait du reste à une pareille entreprise.

C. Chaque Puissance, qui nommerait un résident, mettrait à sa disposition 60 soldats.

A part d'autres considérations qui rendent ce moyen inadmissible, il fournirait des armes à une guerre de religion en petit qui, vu les élémens de jalousie et de discorde déjà existans, ne manquerait pas d'éclater.

(F.O. Docs. 7/302.)

BRITISH JEWS AND PALESTINE, 1841-1843.

Colonel Churchill to Sir Moses Montefiore.

June 14th, 1841.

MY DEAR SIR MOSES,—I have not yet had the pleasure of hearing from you, but I would fain hope that my letters have reached you safe.

I enclose you a petition which has been drawn by the Brothers Harari, in which they state their claims and their earnest desire to be immediately under British protection. I am sorry to say that such a measure is much required even now, not only for them, but also for all the Jews in Damascus.

They are still liable to persecutions similar to those from which, through your active and generous intervention, they have so lately escaped. The Christians still regard them with malevolence, and the statement in the petition enclosed is perfectly correct.

I cannot conceal from you my most anxious desire to see your countrymen endeavour once more to resume their existence as a people. I consider the object to be perfectly attainable. But, two things are indispensably necessary. Firstly, that the Jews will themselves take up the matter universally and unanimously. Secondly, that the European Powers will aid them in their views. It is for the Jews to make a commencement. Let the principal persons of their community place themselves at the head of the movement. Let them meet, concert and petition. In fact the agitation must be simultaneous throughout Europe. There is no Government which can possibly take offence at such public meetings. The result would be that you would conjure up a new element in Eastern diplomacy—an element which under such auspices as those of the wealthy and influential members of the Jewish community could not fail not only of attracting great attention and of exciting extraordinary interest, but also of producing great events.

Were the resources which you all possess steadily directed towards the regeneration of Syria and Palestine, there cannot be a doubt but that, under the blessing of the Most High, those countries would amply repay the undertaking, and that you would end by obtaining the sovereignty of at least Palestine. That the present attempt to prop up the Turkish Empire as at present constituted is a miserable failure, we who see what

is going on around us must at once acknowledge. What turn events will take no one can possibly tell, but of this I am perfectly certain that these countries must be rescued from the grasp of ignorant and fanatical rulers, that the march of civilisation *must* progress, and its various elements of commercial prosperity *must* be developed. It is needless to observe that such will never be the case under the blundering and decrepit despotism of the Turks or the Egyptians. Syria and Palestine, in a word, must be taken under European protection and governed in the sense and according to the spirit of European administration. It must ultimately come to this. What a great advantage it would be, nay, how indispensably necessary, when at length the Eastern Question comes to be argued and debated with this new ray of light thrown around it, for the Jews to be ready and prepared to say: "Behold us here all waiting, burning to return to that land which you seek to remould and regenerate. Already we feel ourselves a people. The sentiment has gone forth amongst us and has been agitated and has become to us a second nature; that Palestine demands back again her sons. We only ask a summons from these Powers on whose counsels the fate of the East depends to enter upon the glorious task of rescuing our beloved country from the withering influence of centuries of desolation and of crowning her plains and valleys and mountain-tops once more, with all the beauty and freshness and abundance of her pristine greatness." I say it is for the Jews to be ready against such a crisis in diplomacy. I therefore would strenuously urge this subject upon your calm consideration, upon the consideration of those who, by their position and influence amongst you are most likely to take the lead in such a glorious struggle for national existence. I had once intended to have addressed the Jews here in their Synagogue upon the subject, but I have reflected that such a proceeding might have awakened the jealousy of the local Government. I have, however, prepared a rough petition which will be signed by all the Jews here and in other parts of Syria, and which I shall then forward to you. Probably two or three months will elapse first. There are many considerations to be weighed and examined as the question develops itself—but a *beginning* must be made—a resolution must be taken, *an agitation must be commenced*, and where the stake is "Country and Home" where is the heart that will not leap and bound to the appeal?

I am the Resident Officer at Damascus until further order.

Believe me to be, Dear Sir Moses,

Yours very faithfully,

CHAS. H. CHURCHILL.

Before closing my letter, I cannot avoid offering one or two further considerations.

Supposing that you and your colleagues should at once and earnestly interest yourselves upon this important subject of the recovery of your ancient country, it appears to me (forming my opinions upon the present attitude of affairs in the Turkish Empire) that it could only be as subjects of the Porte that you could commence to regain a footing in Palestine. Your first object would be to interest the Five Great Powers in your views and to get them to advocate your view with the Sultan upon the clear understanding that the Jews, if permitted to colonise any part of Syria and Palestine, should be under the protection of the Great Powers, that they should have the internal regulation of their own affairs, that they should be exempt from military service (except on their own account as a measure of defence against the incursions of the Bedouin Arabs), and that they should only be called upon to pay a tribute to the Porte on the usual mode of taxation.

No doubt, such an undertaking will require *Patriotism* in the fullest sense of the word, energy and great perseverance. It will require large capital at the outset, but with good prospect of remuneration, returned after the lapse of a few years.

In all enterprises men must be prepared to make great sacrifices, whether of time, health or resources. To reflect calmly before commencing an undertaking and once begun to carry it through, vanquishing, surmounting, triumphing over every obstacle, this is worthy of man's existence and carries with it its own reward, if the judgment is sound, the head clear and the heart honest. I humbly venture to give my opinion upon a subject, which no doubt has already occupied your thought—and the bare mention of which, I know, makes every Jewish heart vibrate. The only question is—*when* and *how*.

The blessing of the Most High must be invoked on the endeavour. Political events seem to warrant the conclusion that the hour is nigh at hand when the Jewish people may justly and with every reasonable prospect of success put their hands to the glorious work of National Regeneration. If you think otherwise I shall bend at once to your decision, only begging you to appreciate my motive, which is simply an ardent desire for the welfare and prosperity of a people to whom we all owe our possession of those blessed truths which direct our minds with unerring faith to the enjoyment of another and better world.—C. H. C.

I will keep you “au fait” of all that passes in this country if you wish it.

15th August, 1842.

MY DEAR SIR MOSES,—I have delayed until now sending to you a written statement of my proposition regarding the Jews of Syria and Palestine partly because I knew you were absent last week from England

and partly because I wished to keep the document by me for a few days previous to committing it finally to your care. The subject, I am sure, must in your eyes appear most worthy of consideration, and I trust that when you have perused my paper and matured the contents in your mind, you will come to such a decision as will induce you to give my proposition your warmest support. It appears to me that it might with advantage be brought under the notice of the Jews on the Continent, and if this be your opinion, perhaps you could get my paper, which, as you will perceive, I have drawn up in the shape of an "address," translated into German and forwarded to your friends in Prussia and Germany. I do sincerely believe that were the Jews as a body, both in England and on the Continent of Europe, to so arrange as to present a joint application to the British Government in the sense I propose, they would have reason to rejoice hereafter that they had taken such a step.

I have nothing more to add, as my Document, which I enclose, will express to you all I can say upon the subject.

The only question that remains for your personal consideration is whether you possess the power of having the proposition laid before the leading Jews abroad as well as in England for their deliberate judgment.

May I beg you to present my kind regards to Lady Montefiore, and believe me to be,

Dear Sir Moses,

Yours most sincerely,

CHAS. H. CHURCHILL.

Proposal of Colonel Churchill (Extract).

Human efforts preceded by prayer and undertaken in faith the whole history of your nation shows to be almost invariably blessed. If such then be your conviction it remains for you to consider whether you may not in all humility, but with earnest sincerity and confiding hope direct your most strenuous attention towards the land of your Fathers with the view of doing all in your power to ameliorate the conditions of your brethren now residing there and with heartfelt aspiration of being approved by Almighty God whilst you endeavour as much as in you lies to render that Land once more a refuge and resting-place to such of your brethren scattered throughout the world as may resort to it.

Hundreds and thousands of your countrymen would strain every effort to accomplish the means of living amidst those scenes rendered sacred by ancient recollections, and which they regard with filial affection, but the dread of the insecurity of life and property which has rested so long upon the soil of "Judea" has hitherto been a bar to the accomplishment of their natural desire.

My proposition is that the Jews of England conjointly with their brethren on the Continent of Europe should make an application to the British Government through the Earl of Aberdeen to accredit and send out a fit and proper person to reside in Syria for the sole and express purpose of superintending and watching over the interests of the Jews residing in that country. The duties and powers of such a public officer to be a matter of arrangement between the Secretary of State for Foreign Affairs and the Committee of Jews conducting the negotiations. It is, I hope, superfluous for me to enlarge upon the incalculable benefit which would accrue to your nation at large were such an important measure to be accomplished, or to allude more than briefly to the spirit of confidence and revival which would be excited in the breasts of your fellow-countrymen all over the world were they to be held and acknowledged agents for the Jewish people resident in Syria and Palestine under the auspices and sanction of Great Britain. . . .

. . . "God has put into my heart the desire to serve His ancient people.
. . . I have discharged a duty imposed on me by my conscience." . . .

Resolution of the Board of Deputies of British Jews.

November 8th, 1842.

That the President be requested to reply to Colonel Churchill to the effect that this Board, being appointed for the fulfilment of special duties and deriving its pecuniary resources from the contributions to the several congregations it represents, is precluded from originating any measures for carrying out the benevolent views of Colonel Churchill respecting the Jews of Syria, that this Board is fully convinced that much good would arise from the realisation of Colonel Churchill's intentions, but is of opinion that any measures in reference to this subject should emanate from the general body of the Jews throughout Europe, and that this Board doubts not that if the Jews of other countries entertain the proposition those of Great Britain would be ready and desirous to contribute towards it their most zealous support.

Colonel Churchill to the Secretary of the Board of Deputies.

BEYROUT, Jany. 8th, 1843.

SIR,—I have the honour to acknowledge the receipt of the official Communication which the Board of Deputies of British Jews has been pleased to address to me.

It affords me the greatest gratification to learn that the British Jews would zealously co-operate with the general body of their countrymen in

endeavouring to procure the permanent amelioration of the condition of Jews in Syria and Palestine.

I humbly venture to express a hope that the Board of Deputies will still continue to entertain this subject, and that it will not think it inexpedient to endeavour to ascertain the feelings and wishes of the Jews in the rest of Europe on a question so interesting and important, one in which is necessarily involved that of the prospective regeneration of their long-suffering and afflicted country.

I beg leave to offer my best thanks and warmest acknowledgements to the Board of Deputies for the kind manner in which it has been pleased to receive my previous communication, and to assure it that my services are ever at its command.

I have the honour to be, &c.,

CHAS. CHURCHILL.

(Minute-Books of Board of Deputies, 1841-43.)

THE ENTENTE POWERS AND PALESTINE, 1917.

Extract from Agreement between Great Britain, France and Russia, dated February 21, 1917.

"5. . . . With a view to securing the religious interests of the Entente Powers, Palestine, with the Holy Places, is separated from Turkish territory and subjected to a special régime to be determined by agreement between Russia, France and England."

(*Manchester Guardian*, January 19, 1918.)

GREAT BRITAIN AND ZIONISM, 1917.

Mr. Balfour to Lord Rothschild.

FOREIGN OFFICE,

November 2nd, 1917.

DEAR LORD ROTHSCHILD,—I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet:—

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly under-

stood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country."

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours sincerely,

ARTHUR JAMES BALFOUR.

(*Times*, November 9, 1917.)

APPENDIX.

INTERNATIONAL ANTI-SEMITISM IN 1498.

THE earliest appearance of the Jewish Question in international European politics—or rather the earliest reference to it in the British State Papers—happened in 1498, shortly after the great expulsion of the Jews from Spain. In that year Ferdinand and Isabella of Spain sent a mission to England on business connected with Prince Arthur's marriage. The mission was apparently instructed to deal with the Jewish Question. The envoys expressed to the King their sorrow that, while Spain had been purged of infidelity, Flanders and England were infested by that scourge. Thereupon, according to a dispatch from the chief of the mission, Henry VII, laying both hands on his breast, swore that he would persecute without mercy any Jew or heretic that the King or Queen of Spain might point out in his dominions.

DOCUMENT.

De Carta del soprior de Santa Cruz a Sus Alts. (Sub-Prior of Santa Cruz to Ferdinand and Isabella, July 18, 1498). Extract.

Acabada nuestra embasada hable al Rey de Inglaterra solo. . . .

Al otro cabo que le dixese que en su Reyno y en Flandes estaban muchos conversos de los Reynos de V.A. y algunos fuydos por miedo de la Inquisicion y quan firmes V.A. estaban en su amistad y hermandad y que los sobredichos siempre procuraban el contrario que le avisaban dello, holgo mucho de tal avis y dixo la mano puesta en los pechos que por la fe de su coraçon que no decia el de marranos mas del mejor de su Reyno si contra lo que yo le decia algo le dixiese, no le oiria ni le ternia por suyo, y que si S.A. le mandaien airsar si en su tierra hay algun judio o herege que por la fe de su corazon et los castigaria bien. Fue esta habla larga y por ser nuevo oficial abrevie, huelga mucho el Rey de Inglaterra en fablar de la Princesa de Gales. . . .

(Record Office : "Spanish Transcripts," Series I, vol. I, B. 205.)

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